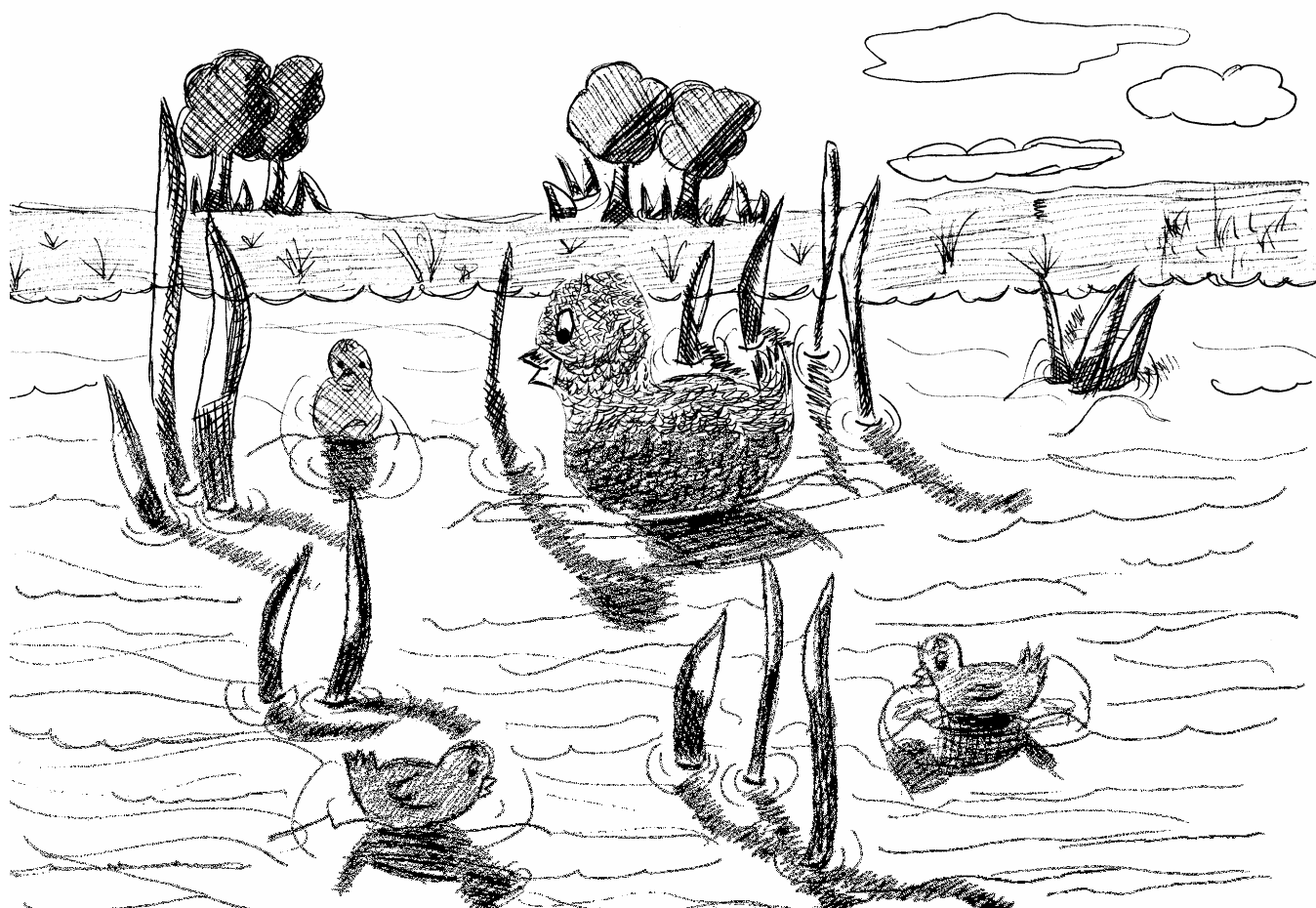

TEXAS REGISTER

Volume 32 Number 15

April 13, 2007

Pages 2069 - 2218

Danielle Pelletier



School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

Texas Register, (ISSN 0362-4781, USPS 120-090), is published weekly (52 times per year) for \$211.00 (\$311.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 1275 Broadway, Albany, N.Y. 12204-2694.

Material in the ***Texas Register*** is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the ***Texas Register*** director, provided no such republication shall bear the legend ***Texas Register*** or "Official" without the written permission of the director.

The ***Texas Register*** is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Albany, N.Y. and at additional mailing offices.

POSTMASTER: Send address changes to the ***Texas Register***, 136 Carlin Rd., Conklin, N.Y. 13748-1531.



a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(800) 226-7199
(512) 463-5561
FAX (512) 463-5569
<http://www.sos.state.tx.us>
register@sos.state.tx.us

Secretary of State –
Roger Williams

Director - Dan Procter

Staff

Ada Aulet
Leti Benavides
Dana Blanton
Belinda Bostick
Kris Hogan
Roberta Knight
Jill S. Ledbetter
Juanita Ledesma
Tamara Wah

IN THIS ISSUE

GOVERNOR

Proclamation 41-3066	2075
Proclamation 41-3067	2075

PROPOSED RULES

TEXAS DEPARTMENT OF AGRICULTURE

CITRUS

4 TAC §21.40	2077
--------------------	------

RAILROAD COMMISSION OF TEXAS

REGULATIONS FOR LIQUEFIED NATURAL GAS (LNG)

16 TAC §14.2001	2077
-----------------------	------

ADMINISTRATION

16 TAC §20.101	2078
----------------------	------

PUBLIC UTILITY COMMISSION OF TEXAS

SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

16 TAC §25.74	2080
16 TAC §25.75	2080
16 TAC §25.107	2081

TEXAS DEPARTMENT OF LICENSING AND REGULATION

REGISTRATION OF PROPERTY TAX CONSULTANTS

16 TAC §§66.10, 66.20, 66.23, 66.25, 66.70, 66.90	2084
16 TAC §66.61	2085

TEXAS RACING COMMISSION

DEFINITIONS

16 TAC §301.1	2085
---------------------	------

VETERINARY PRACTICES AND DRUG TESTING

16 TAC §§319.102, 319.108, 319.111	2086
16 TAC §§319.202, 319.203, 319.204	2088

PARI-MUTUEL WAGERING

16 TAC §321.313	2088
-----------------------	------

WINDHAM SCHOOL DISTRICT

GENERAL PROVISIONS

19 TAC §300.3	2089
---------------------	------

TEXAS BOARD OF CHIROPRACTIC EXAMINERS

RULES OF PRACTICE

22 TAC §75.7	2090
--------------------	------

DEPARTMENT OF STATE HEALTH SERVICES

EMERGENCY PREPAREDNESS

25 TAC §2.1	2090
-------------------	------

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

OCCUPATIONAL LICENSES AND REGISTRATIONS

30 TAC §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.28, 30.30, 30.33	2101
30 TAC §30.28	2108
30 TAC §30.51, §30.60	2109
30 TAC §§30.81, 30.90, 30.92	2110
30 TAC §§30.111, 30.120, 30.122, 30.129	2110
30 TAC §30.125	2111
30 TAC §§30.171, 30.180, 30.185, 30.190, 30.192	2112
30 TAC §§30.201, 30.210, 30.212 - 30.214	2113
30 TAC §30.210	2114
30 TAC §§30.231, 30.240, 30.242, 30.244, 30.245, 30.247	2114
30 TAC §30.246	2116
30 TAC §§30.261, 30.270, 30.272, 30.274	2116
30 TAC §§30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.319	2117
30 TAC §30.318, §30.319	2119
30 TAC §§30.337, 30.340, 30.342, 30.350, 30.355	2119
30 TAC §30.349	2121
30 TAC §§30.381, 30.387, 30.390, 30.392, 30.400	2121
30 TAC §30.399	2123
30 TAC §§30.500 - 30.508	2123

TEXAS YOUTH COMMISSION

ADMISSION, PLACEMENT, AND PROGRAM COMPLETION

37 TAC §85.45	2125
37 TAC §§85.55, 85.59, 85.61, 85.69	2127

TREATMENT

37 TAC §87.55	2128
---------------------	------

YOUTH RIGHTS AND REMEDIES

37 TAC §93.33	2129
---------------------	------

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

SPECIAL PROGRAMS

37 TAC §159.17	2130
----------------------	------

DEPARTMENT OF AGING AND DISABILITY SERVICES

COMMUNITY CARE FOR AGED AND DISABLED

40 TAC §48.2906	2130
-----------------------	------

WITHDRAWN RULES

RAILROAD COMMISSION OF TEXAS

ADMINISTRATION

16 TAC §20.101.....	2133
---------------------	------

COMPTROLLER OF PUBLIC ACCOUNTS

CENTRAL ADMINISTRATION

34 TAC §1.41.....	2133
-------------------	------

TEXAS YOUTH COMMISSION

YOUTH RIGHTS AND REMEDIES

37 TAC §93.15, §93.33.....	2133
----------------------------	------

GENERAL PROVISIONS

37 TAC §99.51.....	2133
--------------------	------

ADOPTED RULES

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

MEDICAID MANAGED CARE

1 TAC §353.2.....	2135
-------------------	------

1 TAC §§353.701 - 353.703	2135
---------------------------------	------

STATE SECURITIES BOARD

GENERAL ADMINISTRATION

7 TAC §101.5.....	2135
-------------------	------

RAILROAD COMMISSION OF TEXAS

PIPELINE SAFETY REGULATIONS

16 TAC §8.201.....	2136
--------------------	------

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CONTRACTS

30 TAC §11.1.....	2137
-------------------	------

30 TAC §11.2.....	2137
-------------------	------

30 TAC §11.3.....	2138
-------------------	------

30 TAC §11.200.....	2138
---------------------	------

COMPTROLLER OF PUBLIC ACCOUNTS

CENTRAL ADMINISTRATION

34 TAC §§1.1, 1.4 - 1.7, 1.9 - 1.11, 1.14 - 1.16, 1.18, 1.20, 1.27 - 1.29, 1.33, 1.36, 1.37, 1.39, 1.42.....	2138
--	------

34 TAC §1.8, §1.22.....	2140
-------------------------	------

34 TAC §§1.13, 1.21, 1.34.....	2140
--------------------------------	------

34 TAC §1.31, §1.32.....	2141
--------------------------	------

34 TAC §1.31, §1.32.....	2141
--------------------------	------

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

GENERAL PROVISIONS

37 TAC §151.52.....	2141
---------------------	------

SPECIAL PROGRAMS

37 TAC §159.5.....	2142
--------------------	------

37 TAC §159.7.....	2142
--------------------	------

37 TAC §159.19.....	2142
---------------------	------

37 TAC §159.21.....	2143
---------------------	------

RULE REVIEW

Proposed Rule Reviews

Texas Racing Commission.....	2145
------------------------------	------

Railroad Commission of Texas	2145
------------------------------------	------

TABLES AND GRAPHICS

.....	2147
-------	------

IN ADDITION

Department of Aging and Disability Services

Notice of Public Hearing	2169
--------------------------------	------

Texas Building and Procurement Commission

Request for Proposal	2169
----------------------------	------

Request for Proposal	2169
----------------------------	------

Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program	2169
--	------

Concho Valley Workforce Development Board

Request for Qualifications	2170
----------------------------------	------

Office of Consumer Credit Commissioner

Notice of Rate Ceilings.....	2171
------------------------------	------

Texas Commission on Environmental Quality

Agreed Orders.....	2171
--------------------	------

Notice of District Petition	2174
-----------------------------------	------

Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 30, Occupational Licenses and Registrations	2175
--	------

Notice of Water Quality Applications.....	2176
---	------

Notice of Water Rights Applications	2178
---	------

Department of State Health Services

Licensing Actions for Radioactive Materials	2178
---	------

Texas Department of Housing and Community Affairs

Notice of Public Hearing	2183
--------------------------------	------

Notice of Public Hearing	2183
--------------------------------	------

Texas Department of Insurance

Company Licensing	2184
-------------------------	------

Third Party Administrator Applications	2184
Texas Department of Licensing and Regulation	
Public Notice - Revised Enforcement Plan.....	2184
Public Notice - Updated Criminal Conviction Guidelines	2184
Texas Lottery Commission	
Instant Game Number 800 "Quick Silver"	2185
Instant Game Number 803 "Cash Celebration"	2189
Instant Game Number 806 "Funky 5's"	2193
Game Number 820 "Break the Bank"	2197
Office of the Controller, Lotto Texas® Jackpot Estimation, Procedure	2202
Office of the Controller, Lotto Texas™ Jackpot Payment and Investment, Procedure	2208
Office of the Controller, Processing Prize Payments Procedures ..	2216
North Central Texas Council of Governments	
Notice of Consultant Contract Award	2216
Public Utility Commission of Texas	
Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority	2217
Notice of Application for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider	2217
Notice of Petition for Declaratory Order	2217
Request for Information	2217

Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 463-5561 in Austin. For out-of-town callers our toll-free number is 800-226-7199. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/opinopen/opengovt.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:
<http://www.state.tx.us/>

...

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Proclamation 41-3066

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Section 411.173(b) of the Government Code of the State of Texas directs that the governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state, or shall issue a proclamation that a license issued by the other state is recognized in this state, if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued; and

WHEREAS, Section 411.173(b) of the Government Code of the State of Texas defines "background check" as a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

WHEREAS, the governor has received a statement of finding from the attorney general that the State of Kansas performs background checks pursuant to Kansas Statute section 75-7c05 and that those checks meet the requirements of Texas Government Code section 411.173(b); and

WHEREAS, the State of Texas is therefore authorized to recognize valid licenses from the State of Kansas;

NOW, THEREFORE, I, Rick Perry, Governor of Texas, do hereby proclaim that the State of Texas shall give full faith and credit to valid concealed handgun licenses issued by the State of Kansas as long as Kansas license holders comply with all laws, rules, and regulations of the State of Texas governing concealed carry, including age restrictions and type of weapons permitted.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 30th day of January, 2007.

Rick Perry, Governor

Attested by: Roger Williams, Secretary of State

TRD-200701287

◆ ◆ ◆

Proclamation 41-3067

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Section 411.173(b) of the Government Code of the State of Texas directs that the governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state, or shall issue a proclamation that a license issued by the other state is recognized in this state, if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued; and

WHEREAS, Section 411.173(b) of the Government Code of the State of Texas defines "background check" as a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

WHEREAS, the governor has received a statement of finding from the attorney general that the State of Nebraska performs background checks pursuant to Nebraska Revised Statute section 69-2431, and that those checks meet the requirements of Texas Government Code section 411.173(b); and

WHEREAS, the State of Texas is therefore authorized to recognize valid licenses from the State of Nebraska;

NOW, THEREFORE, I, Rick Perry, Governor of Texas, do hereby proclaim that the State of Texas shall give full faith and credit to valid concealed handgun licenses issued by the State of Nebraska as long as Nebraska license holders comply with all laws, rules, and regulations of the State of Texas governing concealed carry, including age restrictions and type of weapons permitted.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 16th day of February, 2007.

Rick Perry, Governor

Attested by: Roger Williams, Secretary of State

TRD-200701286

◆ ◆ ◆

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 21. CITRUS

SUBCHAPTER C. CITRUS BUDWOOD CERTIFICATION PROGRAM

4 TAC §21.40

The Texas Department of Agriculture (the department) proposes to amend §21.40, concerning the citrus budwood certification program, to remove three varieties of citrus ("Meyer" lemon, "Thorny Mexican" lime and "Thornless Mexican" lime) from the list of tree varieties that are required to use certified budwood for their production. Section 19.004 of the Texas Agriculture Code (the Code) states that the department and/or the Citrus Budwood Advisory Council (the council) may not require the use of certified citrus budwood until the department and the advisory council determine that an adequate supply of certified citrus budwood is available. The amendments are proposed because the council has determined that demand for the three varieties proposed for removal has increased beyond what can be met by the current supply of certified budwood. The council voted at a recent meeting to request that the department remove "Meyer" lemon, "Thorny Mexican" lime and "Thornless Mexican" lime from the list of mandatory varieties for citrus budwood. The proposed amendments will leave requirements unchanged for six of the nine varieties currently regulated under §21.40.

Dr. Robert L. Crocker, coordinator for pest management, citrus and biotechnology programs, has determined that for the first five-year period the proposed amendments are in effect there will be no anticipated fiscal impact on state or local governments as a result of administration and enforcement of the amended sections, as proposed.

Dr. Crocker also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of administering and enforcing the amended sections is an adequate supply of citrus trees while production capacity for certified budwood of those citrus varieties is being augmented. There will be no costs to individuals, microbusinesses or small businesses required to comply with the amended section.

Comments on the proposal may be submitted to Dr. Robert L. Crocker, Coordinator for Integrated Pest Management, Citrus and Biotechnology Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

The amendments to §21.40 are proposed under the Code, §19.004, which directs the department to administer the citrus budwood certification program; and §19.006, which authorizes the department with the advice of the advisory council, to adopt standards and rules necessary to administer the citrus budwood certification program.

The code that is affected by the proposal is Texas Agriculture Code, Chapter 19.

§21.40. Mandatory Varieties.

(a) For purposes of this subchapter, the following citrus tree varieties are designated as mandatory for citrus budwood certification:

- (1) Grapefruits--"Rio Red";
- (2) Valencia oranges--"Standard", "Olinda";
- (3) Navel oranges--"N-33";
- (4) Other oranges--"Marrs", "Pineapple";
- ~~{(5) Lemons--"Meyer";}~~
- ~~{(6) Limes--"Thorny Mexican", "Thornless Mexican";}~~

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701260

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 463-4075



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 14. REGULATIONS FOR LIQUEFIED NATURAL GAS (LNG)

SUBCHAPTER A. GENERAL APPLICABILITY AND REQUIREMENTS

16 TAC §14.2001

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §14.2001, relating to LNG Advisory Committee, in conjunction with its notice of review and re-adoption of 16 TAC Chapter 14, pursuant to Texas Government Code, §2001.039. The Commission proposes the repeal of §14.2001 because by the terms of the rule, the LNG advisory committee ceased to exist on August 31, 2006.

Mary McDaniel, Director, Safety Division, has determined that for each year of the first five years the proposed repeal will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. McDaniel has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be improved efficiency of the Commission's LNG regulatory operation. There is no anticipated economic cost to individuals or small businesses required to comply with the proposed repeal.

Texas Government Code, §2006.002 requires a state agency considering adoption of a rule that would have an adverse economic effect on small businesses or micro-businesses to reduce the effect if doing so is legal and feasible considering the purpose of the statutes under which the rule is to be adopted. Ms. McDaniel has determined that there is no adverse economic effect on small businesses or micro-businesses, because the repeal proposed in this rulemaking is to eliminate a rule establishing an advisory committee that had already ceased to exist.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.html; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments for 30 days after publication in the *Texas Register*. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Ms. McDaniel at (512) 463-7166. The status of Commission rulemakings in progress is available at www.rrc.state.tx.us/rules/proposed.html.

The Commission proposes the repeal under Texas Natural Resources Code, §116.012, which authorizes the Commission to adopt rules and standards relating to liquefied natural gas activities to protect the health, welfare, and safety of the general public; and Texas Government Code, Chapter 2110, State Agency Advisory Committees.

Statutory authority: Texas Natural Resources Code, §116.012, and Texas Government Code, Chapter 2110.

Cross-reference to statute: Texas Natural Resources Code, Chapter 116, and Texas Government Code, Chapter 2110.

Issued in Austin, Texas on March 29, 2007.

§14.2001. *LNG Advisory Committee.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701212

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 475-1295



CHAPTER 20. ADMINISTRATION

SUBCHAPTER B. ACCESS TO AND CHARGES FOR RECORDS

16 TAC §20.101

The Railroad Commission of Texas (Commission) withdraws the amendments proposed to §20.101, relating to Access to and Charges for Commission Records, published in the December 1, 2006, issue of the *Texas Register* (31 TexReg 9674), and proposes other amendments to §20.101. The Commission proposes the amendments pursuant to Senate Bill 452 and Senate Bill 727, 79th Legislature, 2005, which transferred the duties of the Texas Building and Procurement Commission (TBPC) under the public information law to the Office of the Attorney General (OAG). The TBPC rules regulating charges for copies of public information were previously located under Title 1, Part 5, Chapter 111, Subchapter C, of the Texas Administrative Code, and were transferred to the OAG and reorganized under Title 1, Part 3, Chapter 70, of the Texas Administrative Code effective September 1, 2005, as published in the September 29, 2006, issue of the *Texas Register* (31 TexReg 8251). The withdrawal is necessary because, after the Commission proposed the first set of amendments to §20.101, the OAG proposed some amendments to its rules in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10447); those amendments were adopted effective February 22, 2007 as published in the February 16, 2007 issue of the *Texas Register* (32 TexReg 614). The Commission's proposed amendments to §20.101 add the OAG rule numbers and update the adopted or amended dates in subsection (a)(1) through (11).

Rebecca Trevino, Director, Administration Division, has determined that, for each year of the first five years the amendments are in effect, there will be no fiscal implications to state or local governments as a result of the amendments. The public benefit anticipated as a result of the amendments will be that the Commission's rules will accurately state the basis on which the Commission charges for copies of public information. There is no anticipated economic cost for small businesses, micro-businesses, or individuals who will be required to comply with the amendments.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.html; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments for 10 days after publication in the *Texas Register*. The Commission encourages all interested persons to submit comments no later than 5:00 p.m. on Monday, April 23, 2007. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Ms. Kellie Martinec at (512) 475-1295. The status of Commission rulemakings in progress is available at www.rrc.state.tx.us/rules/proposed.html.

The Commission proposes the amendments under Texas Government Code, §2161.003, which requires the Commission to adopt the rules of the Texas Building and Procurement Commission promulgated under Texas Government Code, §2161.002, as the Commission's own rules; and Texas Civil Statutes, Article 6447, which authorizes the commissioners to make all rules necessary for their government and proceedings.

Statutory authority: Texas Government Code, §2161.003 and Chapters 2155, 2158, 2161, 2162, 2166, 2252, and 2254; and Texas Civil Statutes, Article 6447.

Cross-reference to statute: Texas Government Code, §2161.003 and Texas Civil Statutes, Article 6447.

Issued in Austin, Texas on March 29, 2007.

§20.101. *Access to and Charges for Commission Records.*

(a) The Commission adopts by reference the rules of the Office of the Attorney General in 1 TAC, Part 3, Chapter 70, relating to Cost of Copies of Public Information (formerly Texas Building and Procurement Commission in 1 TAC Chapter 111, Subchapter C, concerning cost of copies of public information). These rules were transferred from TBPC to the OAG effective September 1, 2005. The adopted or amended dates in paragraphs (1) through (11) of this subsection remain in effect. [; as effective on the following dates:]

(1) §70.1 (formerly §111.61), Purpose, amended effective February 22, 2007 [H, 2004];

(2) §70.2 (formerly §111.62), Definitions, amended effective February 22, 2007 [H, 2004];

(3) §70.3 (formerly §111.63), Charges for Providing Copies of Public Information, amended effective February 22, 2007 [H, 2004];

(4) §70.4 (formerly §111.64), Requesting an Exemption, amended effective February 22, 2007 [January 16, 2003];

(5) §70.5 (formerly §111.65), Access to Information Where Copies Are Not Requested, amended effective February 11, 2004;

(6) §70.6 (formerly §111.66), Format for Copies of Public Information, amended [adopted] effective February 22, 2007 [September 18, 1996];

(7) §70.7 (formerly §111.67), Estimates and Waivers of Public Information Charges, amended effective February 22, 2007 [H, 2004];

(8) §70.8 (formerly §111.68), Processing Complaints of Overcharges, amended effective February 22, 2007 [H, 2004];

(9) §70.9 (formerly §111.69), Examples of Charges for Copies of Public Information, amended effective February 11, 2004;

(10) §70.10 (formerly §111.70), The Attorney General [Texas Building and Procurement Commission] Charge Schedule, amended effective February 22, 2007 [H, 2004]; and

(11) §70.11 (formerly §111.71), Informing the Public of Basic Rights and Responsibilities under the Public Information Act, amended effective February 22, 2007 [H, 2004].

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701210

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 475-1295

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) proposes an amendment to §25.74, relating to Reports on Sale of Property and Mergers, and the repeal of §25.75, relating to Reports on Sale of 50% or More of Stock. The proposed amendment and repeal will require an electric utility to provide notice to the commission in advance of certain transactions. The amendment and repeal will enable the commission to better regulate and supervise the business of each electric utility. Project Number 34038 is assigned to this proceeding.

Jess Totten, Director of the Electric Industry Oversight Division, has determined that for each year of the first five-year period the proposed amendment and repeal are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Totten has determined that for each year of the first five years the proposed amendment and repeal are in effect the public benefit anticipated as a result of enforcing the amendments will be that customers that rely on the services provided by electric utilities will be better protected from potential adverse consequences of certain transactions. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed. Transactions of the kind addressed by the amendment to §25.74 are required to be reported today. This amendment will require them to be reported before a transaction occurs.

Mr. Totten has also determined that for each year of the first five years the proposed amendment and repeal are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rule-making, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 at a time to be determined. The request for a public hearing must be received within 24 days after publication.

Comments on the proposed amendment and repeal may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 24 days after publication. Sixteen copies of comments on the proposed amendment and repeal are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 35 days after publication. Comments

should be organized in a manner consistent with the organization of the proposed amendment and repeal. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the amendment and repeal. All comments should refer to Project Number 34038.

SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

16 TAC §25.74

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically PURA §14.001, which gives the commission the general power to regulate and supervise the business of each electric utility; PURA §14.201, which requires the commission to keep itself informed as to the manner and method in which each electric utility is managed and its affairs are conducted; PURA §14.101, which requires the commission to review certain transactions of electric utilities; and PURA §37.154, which requires the commission to review the transfer of a certificate of convenience and necessity of an electric utility.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.101, and 37.154.

§25.74. Report [Reports] on Sale of Property, Merger, Loan, Purchase or Sale of Stock, or Transfer of Certificate of Convenience and Necessity [and Mergers].

(a) An electric utility shall not sell, acquire, lease, or rent any plant as an operating unit or system in the State of Texas for a total consideration of more than [in excess of] \$100,000 unless the electric utility reports such transaction to the commission not later than six months prior to the earliest date that the transaction could occur [while pending or within 30 days after closing].

(b) An electric utility shall not merge, ~~[or]~~ consolidate, or otherwise combine with another electric utility or public utility operating in the State of Texas unless the electric utility reports such transaction to the commission not later than six months prior to the earliest date that the transaction could occur [while pending or within 30 days after closing].

(c) An electric utility ~~[Electric utilities]~~ shall not purchase voting stock in another electric utility or public utility doing business in the State of Texas unless the electric utility reports such purchase to the commission not later than six months prior to the earliest date that the transaction could occur [while pending or within 30 days after closing].

(d) An electric utility ~~[Electric utilities]~~ shall not loan money, stocks, bonds, notes, or other evidence ~~[evidences]~~ of indebtedness to any ~~[corporation or]~~ person who [owning or holding] directly or indirectly owns or holds any stock of the electric utility unless the electric utility reports such transaction to the commission not later than six months prior to the earliest date that the loan could occur [while pending or within 30 days after closing]. A properly filed tariff change with respect to energy conservation loans available to customers, who may or may not be shareholders as described in this subsection, will be considered adequate reporting to the commission.

(e) The direct or indirect transfer of a controlling interest in an electric utility or the electric utility's direct or indirect owner, including the sale of 50% or more of the stock of the electric utility or the electric

utility's direct or indirect owner, shall not occur unless the electric utility reports such transaction to the commission not later than six months prior to the earliest date that the transaction could occur. [An electric cooperative or municipal utility shall report to the commission any sale, acquisition, lease, or rental of any generating facilities in the State of Texas for a total consideration in excess of \$100,000, during the pendency of the transaction or within 30 days after closing.]

(f) An electric utility shall not directly or indirectly transfer a certificate of convenience and necessity unless the electric utility reports such transaction to the commission not later than six months prior to the earliest date that the transfer could occur. The circumstances in which a transfer of an electric utility's certificate of convenience and necessity occurs include, but are not limited to, a transaction described in subsection (b) or (e) of this section.

(g) A transaction addressed in subsection (f) of this section shall not occur before the commission completes its review of the transaction as proposed, regardless of the amount of time that has transpired since the report of the transaction to the commission was made.

(h) For purposes of this section, a direct or indirect owner of an electric utility is limited to an entity that directly or indirectly controls the electric utility, and therefore does not include an entity that has a non-controlling interest in the electric utility or the electric utility's parent.

(i) This section applies to all transactions addressed by this section that have not yet occurred, including transactions for which reports to the commission have been made pursuant to this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701257

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 936-7223



16 TAC §25.75

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Public Utility Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically PURA §14.001, which gives the commission the general power to regulate and supervise the business of each electric utility; PURA §14.201, which requires the commission to keep itself informed as to the manner and method in which each electric utility is managed and its affairs are conducted; PURA §14.101, which requires the commission to review certain transactions of electric utilities; and PURA §37.154, which requires the commission to review the transfer of a certificate of convenience and necessity of an electric utility.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.101, and 37.154.

§25.75. *Reports on Sale of 50% or more of Stock.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701256

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 936-7223



SUBCHAPTER E. CERTIFICATION, LICENSING AND REGISTRATION

16 TAC §25.107

The Public Utility Commission of Texas (commission) proposes an amendment to §25.107, relating to certification of retail electric providers. The proposed amendment will permit the commission to establish additional or different financial requirements for retail electric providers (REPs) that, together with any affiliates, serve a million customers or more and will clarify some of the circumstances in which transfers of a REP certificates occur. The amendment would also repeal certain obsolete provisions of the rule. This rule is a competition rule subject to judicial review as specified in PURA §39.001(e). Project Number 34039 is assigned to this proceeding.

When commenting on specific subsections of the proposed rules, parties are encouraged to describe "best practice" examples of regulatory policies, and their rationale, that have been proposed or implemented successfully in other states already undergoing electric industry restructuring, if the parties believe that Texas would benefit from application of the same policies. The commission is interested in receiving only "leading edge" examples that are specifically related and directly applicable to the Texas electric market, rather than broad citations to other state restructuring efforts.

Jess Totten, Director of the Electric Oversight Division, has determined that for each year of the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Totten has determined that for each year of the first five years the proposed amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be better assurance that large REPs have the financial resources to provide continuous and reliable retail electric service, which will protect customers, electric utilities providing delivery service, and other companies participating in the electric market from the adverse impacts of the business failure of a large REP. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There may be economic costs to persons who are required to comply with the proposed section. These costs may include the cost of meeting more stringent financial requirements and demonstrating to the commission that their financial resources are adequate. The im-

pacts are likely to vary from business to business, and are difficult to ascertain, but it is believed that the benefits accruing from implementation of the proposed section will outweigh these costs.

Mr. Totten has also determined that for each year of the first five years the proposed amendment is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rule-making, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 at a time to be determined. The request for a public hearing must be received within 24 days after publication.

Comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 24 days after publication. Sixteen copies of comments on the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 35 days after publication. Comments should be organized in a manner consistent with the organization of the proposed amendment. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 34039.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §39.352, which authorizes the commission to certify a person as a REP who, among other things, has the financial resources to provide continuous and reliable electric service; and PURA §39.356(a), which authorizes the commission to suspend or revoke a REP's certificate if it no longer has the financial capability to provide continuous and reliable electric service.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.352, and 39.356(a).

§25.107. *Certification of Retail Electric Providers (REPs).*

(a) Application. This section applies to all persons who seek to provide electric service to retail customers in Texas on or after the date of customer choice, as established by Public Utility Regulatory Act (PURA) Chapter 39, or as a provider of retail electric service in the Customer Choice Pilot Projects, as established under PURA §39.104 and §39.405. This section does not apply to the state, political subdivisions of the state, electric cooperatives or municipal corporations, or to electric utilities providing service in an area where customer choice is not in effect [subject to PURA §39.102(e) until the end of the utility's rate freeze]. An electric cooperative or municipally owned utility participating in customer choice may offer electric energy and related services at unregulated prices directly to retail customers who have customer choice without obtaining certification as a REP. The statutory mandate for certification of persons who provide retail electric service in this state, provided by PURA §39.352(a), is interpreted to address business functions as follows:

(1) - (2) (No change.)

(b) (No change.)

(c) Application for REP certification.

(1) (No change.)

(2) A retail electric provider may apply for certification any time after September 1, 2000. A certificate granted pursuant to this section is not transferable, directly or indirectly, without prior approval by the commission. For the purposes of this section, a transfer includes the direct or indirect transfer of a controlling interest in the certificate holder or the certificate holder's direct or indirect owner, including the sale of 50% or more of the stock of the certificate holder or the certificate holder's owner; or the sale, acquisition, or merger or other combination of the certificate holder or the certificate holder's owner. For purposes of this section, a direct or indirect owner of a certificate holder is limited to an entity that directly or indirectly controls the certificate holder, and therefore does not include an entity that has a non-controlling interest in the certificate holder or the certificate holder's parent.

(3) - (6) (No change.)

(7) [The commission will make an effort, where the facts of the case permit, to insure that applications filed simultaneously are resolved simultaneously.] Except where good cause exists to extend the time for review, the commission shall enter an order approving, rejecting, or approving an application with modifications within 90 days of filing an application. Good cause for extending the time for review includes an application to transfer a REP certificate by a REP that, together with any affiliates, serves one million or more residential customers.

(8) - (9) (No change.)

(d) (No change.)

(e) Administrative requirements. As a requisite for obtaining and maintaining certification, a REP must meet the following requirements concerning business names, office access, and percentage of electricity sold to residential customers.

(1) - (2) (No change.)

[(3) Threshold residential service requirement. For 36 months after retail competition begins, if a REP serves an aggregate load in excess of 300 megawatts within Texas during a given year, not less than 5.0% of the REP's load for the year in megawatt hours must consist of residential customers, pursuant to PURA §39.352(g). For the purposes of this paragraph, "residential customers" shall include any customers classified as residential by the applicable transmission and distribution utility tariff or, in the absence of a residential rate class, those customers that are primarily end users consuming electricity for personal, family or household purposes and who are not resellers of electricity.]

[(A) The 300 megawatt aggregate load threshold shall be calculated by averaging the highest average hourly demand for each of the months of June, July, August, and September. REPs shall use the sum of the amount of generation scheduled at the relevant independent organization(s) to serve the REP's customers for determining the demand to be used in this calculation.]

[(B) If the calculation made under subparagraph (A) of this paragraph is in excess of 300 megawatts, the certificate holder shall:]

[(i) demonstrate that not less than 5.0% of the total quantity of megawatt hours it sold in the calendar year was supplied to residential customers; or]

[(ii) demonstrate that another REP served sufficient qualifying residential load on its behalf; or]

[(iii) make the necessary calculations and pay an amount into the system benefit fund equal to \$1 multiplied by a number equal to the difference between the number of megawatt hours it sold to residential customers and the number of megawatt hours it was required to sell to such customers.]

[(C) The calculations in subparagraph (B) of this paragraph are subject to the following limitations:]

[(i) An affiliated REP shall pay \$1 multiplied by a number equal to the difference between the number of megawatt hours sold to residential customers outside of the electric utility's service area and the number of megawatt hours it was required to sell to such customers outside of the electric utility's service area.]

[(ii) For purposes of subparagraph (B)(ii) of this paragraph, "qualifying residential load" may not include customers served by an affiliated retail electric provider in its affiliated electric utility's service area.]

[(iii) The requirements of this paragraph apply only to the portion of an affiliated REP's load that is outside the electric utility's service area. With respect to that "outside" load, any residential customers counted to meet the 5.0% threshold of residential customers must also be outside the electric utility's service area.]

[(iv) Where several REPs belong to a common owner, their loads will be combined for purposes of evaluation under this subsection. If the common owner is an electric utility, only loads served outside the electric utility's service area will be used in the calculations under this paragraph.]

(f) Financial requirements. As a requisite for obtaining and maintaining certification, a REP must meet the financial resource standards established by this subsection. The standards established by paragraphs (1), (2), and (3) of this subsection are additive. The commission may review the financial condition of, and establish additional or different financial requirements for, a REP that, together with any affiliates, serves one million or more residential customers and does not have a credit rating that meets the requirements of paragraph (1)(F) of this subsection or has the lowest credit rating sufficient to meet the requirements of paragraph (1)(F) of this subsection but has been placed on credit watch or review for a possible downgrade. If the credit ratings for a REP from different rating agencies referred to in paragraph (1)(F) of this subsection are different, the commission will rely on the highest rating for the purposes of determining whether to review the financial condition of, and establish additional or different financial requirements for, the REP. The commission may review the financial condition of, and establish additional or different financial requirements for, such a REP regardless of whether an affiliate or another company provided a bond, guaranty, or corporate commitment in order for the REP to meet the requirements of paragraph (1)(F) of this subsection.

(1) - (5) (No change.)

(g) - (h) (No change.)

(i) Requirements for reporting and for changing the terms of a REP certificate. The ongoing maintenance of a REP certificate is dependent upon keeping the certification information up to date, pursuant to the following requirements:

(1) - (3) (No change.)

(4) All REP certificate holders shall file updated information set forth in this subsection on an annual basis on a report form approved by the commission. The annual report is due on June 1 each

year for the preceding calendar year. A company's first annual report is due in the year following the calendar year in which it is awarded a certificate. The following information, at a minimum, shall be reported annually:

(A) - (B) (No change.)

~~[(C)]~~ For 36 months after retail competition begins, the result of the calculation and proof of threshold residential service requirements and the amount paid into the system benefit fund, if applicable, pursuant to subsection (e)(3) of this section.]

~~(C)~~ ~~[(D)]~~ A list of aggregators with whom the REPs have conducted business in the reporting period, including commission registration verification for each.

~~(D)~~ ~~[(E)]~~ A sworn affidavit that the certificate holder is not in material violation of any of the requirements of its certificate.

(5) - (9) (No change.)

(j) Suspension and revocation. Pursuant to PURA §39.356, certificates granted pursuant to this section are subject to suspension and revocation for significant violations of PURA, commission rules, or reliability standards adopted by an independent organization. The commission may also amend the certificate or impose an administrative penalty for a significant violation. The commission or any affected person may bring a complaint seeking to suspend or revoke a REP's certificate. Significant violations include, but are not limited to, the following:

(1) - (5) (No change.)

(6) Failure to maintain ~~[the minimum level of]~~ financial resources ~~[set out]~~ in accordance with subsection (f) of this section;

(7) - (15) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701258

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 936-7223



PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 66. REGISTRATION OF PROPERTY TAX CONSULTANTS

The Texas Department of Licensing and Regulation ("Department") proposes amendments to existing rules at 16 Texas Administrative Code, §§66.10, 66.20, 66.23, 66.25, 66.70, and 66.90; and the repeal of §66.61, regarding the property tax consultants program.

These rule changes are necessary to adjust the continuing education requirements as recommended by the Property Tax Consultants Advisory Council ("Council"), update law and rule citations and other references, delete redundant provisions, and rearrange provisions for better organization. The Council, which is

a body that advises the Department and Commission on matters related to the regulation of property tax consultants, considered the proposed rule changes on March 2, 2007 and recommended that the rules be published for public comment.

In §66.10 the definition of "cheating" is deleted because the Department now has a comprehensive examination cheating rule in 16 TAC §60.63, which applies to all Department programs including property tax consultants. As recommended by the Council, the definition of "professional designation" is changed to refer to the Institute for Professionals in Taxation, which is the current name for the organization. The definition of "real estate property tax consultant" is updated to make the definition consistent with how the term is used in the rules. The definition now expressly includes real estate brokers, salespersons, and appraisers who are registered under Texas Occupations Code, §1152.155(b). Language is removed that does not apply to all real estate property tax consultants.

Section 66.20 is reorganized to delete provisions that are covered in statute or elsewhere in the Department's rules. The examination passing score provision is moved from §66.61, which is being repealed.

The heading of §66.23 and subsection (a) are reworded to be more consistent with the language of Chapter 51, Occupations Code, which is the Department's statutory authority for issuing licenses by endorsement.

In §66.25, as recommended by the Council, the breakdown of continuing education hours in subsection (b) is changed to provide additional instruction in property tax consultant law and rules and less instruction in general property tax consultant topics. To be more consistent with the statute, subsection (b) clarifies that the breakdown of hours does not apply to real estate courses that the Department is required to recognize for continuing education credit. For this same reason, the last sentence in subsection (g) is deleted. Language is added to subsection (d) to clarify that a registrant may not receive credit for attending the same course more than once during the one-year period for which the course is approved.

Section 66.61 is repealed. The examination cheating provision is deleted because this matter is addressed in 16 TAC §60.63.

Section 66.70(b) is updated with specific Department information that a registrant must provide to consumers on all written contracts. The option to post the Department information on a sign at the registrant's place of business is deleted. The Department believes that providing the Department's contact information in all contracts will be more beneficial to consumers because a consumer may not actually visit a registrant's place of business.

In §66.90 an unnecessary rule reference is deleted.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendments and repeal are in effect there will be no changes to costs or revenues of state or local government as a result of enforcing or administering the amendments and the repeal.

Mr. Kuntz also has determined that for each year of the first five-year period the amendments and repeal are in effect, the public benefit will be that consumers will have better access to the Department's contact information for the purpose of filing complaints or obtaining additional information about the regulation of property tax consultants. An additional benefit to the public and registrants will be the greater emphasis placed on le-

gal requirements in continuing education hours that registrants are required to take.

Mr. Kuntz also has determined that there may be some cost to registrants, including small or micro-businesses, in ensuring that the Department's contact information is printed on all contracts. However, the cost is not expected to be significant. There are no other anticipated costs to persons required to comply with the rules.

Comments on the proposal may be submitted to Caroline Jackson, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

16 TAC §§66.10, 66.20, 66.23, 66.25, 66.70, 66.90

The amendments are proposed under Texas Occupations Code, Chapter 1152 and Chapter 51 which authorize the Department to adopt rules as necessary to implement those chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 1152 and Chapter 51. No other statutes, articles, or codes are affected by the proposal.

§66.10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ~~Act--~~Texas Occupations Code, Chapter 1152.

~~[(2) Cheating--Attempting to obtain, obtaining, providing, or using answers to examination questions by deceit, fraud, dishonesty, or deception while taking a qualification examination.]~~

(2) ~~[(3)]~~ Private Provider--An educational institution that is established, conducted, and primarily supported by a nongovernmental person, as defined by Texas Occupations Code, Chapter 1152, which meets program and accreditation standards comparable to public institutions of higher education as determined by the Texas Higher Education Coordinating Board, and which offers an educational program or course for pre-registration credit or for upgrade credit towards a senior property tax consultant registration. The term does not include a continuing education provider as defined in Chapter 59 of this title.

(3) ~~[(4)]~~ Professional Designation--The designation of Certified Member of the Institute (CMI) conferred by the ~~Institute for Professionals in Taxation [Institute of Property Taxation]~~ or another designation recognized by the department.

(4) ~~[(5)]~~ Real estate property tax consultant--An individual ~~[who performs property tax consulting services in connection with property that is real property only and]~~ who has registered under Texas Occupations Code, §1152.155(b) or §1152.158.

(5) ~~[(6)]~~ Senior property tax consultant--A registered property tax consultant who has met the additional requirements of Texas Occupations Code, Chapter 1152, and these rules.

§66.20. Registration Requirements[—General].

~~[(a) Any person who performs property tax consulting services as defined in Texas Occupations Code, Chapter 1152 must first become registered with the Texas Department of Licensing and Regulation.]~~

(a) ~~[(b)]~~ To register or renew a registration, a person must file a completed application on a form provided by the department and pay the applicable fees.

(b) The standard for passing the senior property tax consultant examination shall be a score of at least 70%.

~~[(c) An individual whose registration has expired may renew the registration in accordance with the renewal provisions in Texas Occupations Code, Chapter 51, Subchapter H.]~~

~~[(d) Providing false information on an application is cause for denial and/or revocation of registration.]~~

§66.23. Registration--Endorsement [Waiver of Requirements].

(a) The department may waive any prerequisite to registration if the department determines that the applicant holds a license or registration issued by another jurisdiction that has requirements [Competency standards of another state must be] substantially equivalent [equal] to those of Texas. It is the responsibility of the applicant to furnish evidence substantiating the applicant's qualifications.

(b) - (d) (No change.)

§66.25. Continuing Education.

(a) (No change.)

(b) To renew a registration, a registrant must complete 12 hours of continuing education in courses approved or recognized by the department. Except as provided in Texas Occupations Code, §1152.204(b), the [The] continuing education hours must include the following:

(1) three [two] hours of instruction in Texas state law and rules that regulate the conduct of registrants;

(2) - (3) (No change.)

(4) four [five] hours of instruction [approved by the department] in property tax consulting.

(c) (No change.)

(d) A registrant may not receive continuing education credit for attending the same course more than once during the one-year period for which the course is approved.

(e) - (f) (No change.)

(g) A continuing education course recognized by the department under Texas Occupations Code, §1152.204(b) is not required to be approved under Chapter 59 of this title, and the provider of such a course is not required to be registered under Chapter 59 of this title. [To be recognized, the course must be dedicated to instruction in one or more of the topics listed in subsection (b) of this section, and will be recognized for continuing education credit accordingly].

(h) - (i) (No change.)

§66.70. Responsibilities of Registrant--General.

(a) A registrant may not allow an employee or associate to perform property tax consulting services without first obtaining registration.

(b) A registrant shall list the following information on all written contracts: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints." [All registrants shall notify service recipients of the name, mailing address, and telephone number of the department. The registrant may use a sticker or rubber stamp to convey the required information. The notification shall be included on any contract or on a sign prominently displayed at each place of business.]

(c) - (f) (No change.)

§66.90. *Sanctions--Administrative Sanctions/Penalties.*

If a person violates the Act, or a rule or order adopted or issued by the commission or executive director relating to the Act, the department may institute proceedings to impose administrative sanctions and/or administrative penalties in accordance with Texas Occupations Code, Chapter 51 [and Chapter 60 of this title (relating to Texas Commission of Licensing and Regulation)].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701261

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 463-7348



16 TAC §66.61

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Licensing and Regulation or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Texas Occupations Code, Chapter 1152 and Chapter 51 which authorize the Commission to adopt rules as necessary to implement those chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeal are those set forth in Texas Occupations Code, Chapter 1152 and Chapter 51. No other statutes, articles, or codes are affected by the proposal.

§66.61. *Responsibilities of Department--Examinations.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701262

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 463-7348



PART 8. TEXAS RACING COMMISSION

CHAPTER 301. DEFINITIONS

16 TAC §301.1

The Texas Racing Commission proposes two amendments to 16 TAC §301.1. These amendments are proposed in conjunction with the Commission's rule review of Chapter 301, conducted in

accordance with Government Code, §2001.039. The Commission has preliminarily determined that the reasons for adopting Chapter 301 continue to exist, with the proposed amendments.

The Texas Racing Commission proposes an amendment to §301.1(b)(46), to change the term "odds board" to "tote board." The Commission also proposes to amend the definition of race meeting under §301.1(b)(59) to clarify that the term includes pari-mutuel wagering on both live and simulcast racing.

Charla Ann King, Executive Secretary for the Texas Racing Commission, has determined that for the first five year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the amendment.

Ms. King has also determined that for each year of the first five years the amendment is in effect the anticipated public benefit will be that the definitions will be clearer and will more closely align with industry standard terms.

There is no anticipated economic cost to an individual required to comply with the proposed amendment.

There are no foreseeable implications relating to costs or revenues for small or micro-businesses as a result of enforcing or administering the proposed amendment.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Gloria Giberson, Assistant to the Executive Secretary for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing.

The amendment implements Texas Civil Statutes, Article 179e.

§301.1. Definitions.

(a) (No change.)

(b) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (45) (No change.)

(46) Tote [Odds] board--a facility at a racetrack that is easily visible to the public on which odds, payoffs, advertising, or other pertinent information is posted.

(47) - (58) (No change.)

(59) Race meeting--the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission [a group of days on which horse or greyhound racing is conducted at a racetrack].

(60) - (89) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.



CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING

The Texas Racing Commission proposes amendments to §§319.102, 319.111, 319.202, 319.203, and 319.204. The Commission also proposes new §319.108. These amendments are proposed in conjunction with the Commission's rule review of Chapter 319, conducted in accordance with Government Code, §2001.039. The Commission has preliminarily determined that the reasons for adopting the above referenced sections continue to exist, with the proposed amendments.

The sections proposed for amendment relate to the veterinarian's list for race horses, Extracorporeal Shock Wave Therapy and Radial Pulse Wave Therapy, bleeders and the furosemide program, the veterinarian's list for greyhounds, kennel inspections, and vaccination requirements for greyhounds.

Charla Ann King, Executive Secretary for the Commission, has determined that for each of the first five years that the amended rules will be in effect, the following statements regarding the anticipated public benefit will apply:

The change to §319.102 will clarify that, for the purpose of removing a horse from the veterinarian's list, the commission will accept the report of a satisfactory workout or examination conducted by a commission veterinarian employed by a pari-mutuel regulatory authority outside of Texas.

New §319.108 regulates the use of Extracorporeal Shock Wave Therapy and Radial Pulse Wave Therapy. The provisions of this new rule are consistent with the provisions of the Association of Racing Commissioners International's model rule regarding these therapies.

The changes to §319.111 accomplish five purposes.

First, §319.111(a)(1) is amended by the insertion of the word "occurs." This is a technical correction only.

Second, the creation of new §319.111(a)(2) provides an opportunity for a trainer to seek reconsideration of a commission veterinarian's diagnosis of an EIPH event.

Third, the changes to §319.111(e) eliminate many of the barriers to removing a horse from the furosemide program. Under the rule as proposed, a trainer will only have to state his intent to race the horse without furosemide at the time he enters the horse into a race. In addition, a horse that competes out of state without furosemide is deemed to have been withdrawn from the furosemide program. These changes will align the requirements for withdrawing from the furosemide program to match the requirements for entering the program. In addition, they will reduce paperwork and streamline the process for trainers of withdrawing horses from the furosemide program.

Fourth, the change to §319.111(f)(2) will correct a typographical error.

Finally, the changes to §319.111(g) will clarify the minimum lengths of time that a horse will remain on the veterinarian's list after Exercise Induced Pulmonary Hemorrhage (EIPH) events. The changes to §319.111(g) do not change the substance of the existing rule, but only present the rule in a format that is easier to understand.

The change to §319.202(b) will provide additional flexibility to the commission veterinarian in notifying the responsible party for a kennel that the veterinarian is placing one of the kennel's greyhounds on the veterinarian's list. The current rule prescribes that the commission veterinarian should notify the kennel owner; however, in many cases, the owner has delegated the responsibility for day-to-day management of a kennel to the trainer. This rule amendment will provide the commission veterinarian with the flexibility of notifying either the owner or the trainer.

The changes to §319.203 will distinguish between the types of monitoring and inspection efforts made by commission veterinarians at greyhound racetracks. The current rule includes both types of activities as part of the kennel inspection, which generally occurs on an annual or semi-annual basis. However, the commission veterinarians monitor the health and care of the greyhounds on a daily basis, and focus their kennel inspections on the physical infrastructure of the facilities. The proposed changes reflect the different natures of these efforts and the different timetables. In addition, the changes to §319.203 specify how often kennels should be inspected. Only one of the state's three greyhound tracks offers seasonal race meets; the other two operate throughout the year. The amended rule will specify that year-round greyhound tracks will be inspected semi-annually, and that seasonal greyhound tracks will be inspected at the beginning of each race meet.

Section 319.204(c), which sets out the vaccination requirements for greyhounds, contains an ineffective reference to the rules of the Texas Animal Health Commission (TAHC). §319.204(c) refers to the TAHC's rules governing greyhound health certificates, entry permits or veterinarian inspections. However, the TAHC has no such rules. The rule amendment will delete the ineffective reference.

There are no foreseeable implications relating to costs or revenues for state or local governments as a result of enforcing or administering the proposed amendments.

There are no foreseeable implications relating to costs or revenues for small or micro-businesses as a result of enforcing or administering the proposed amendments.

There are no economic costs to persons required to comply with the proposed amendments.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendments.

All comments or questions regarding these proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Gloria Giberson, Assistant to the Executive Secretary for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

SUBCHAPTER B. TREATMENT OF HORSES

16 TAC §§319.102, 319.108, 319.111

The rule amendments and new rule are proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorizes the Commission to make rules relating to all aspects of greyhound

and horse racing, and §3.07, which requires the commission to make rules specifying the authority and duties of race officials.

The amendments and new rule implement Texas Civil Statutes, Article 179e.

§319.102. Veterinarian's List.

(a) - (d) (No change.)

(e) A workout for or an examination by a commission veterinarian in any pari-mutuel jurisdiction will be recognized for the purposes of removing a horse from the veterinarian's list.

§319.108. Extracorporeal Shock Wave Therapy.

The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(1) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the Commission or its designee before use;

(2) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission;

(3) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to the commission veterinarian or the commission veterinarian's designee on the prescribed form within 24 hours; and

(4) Any treated horse shall be on the veterinarian's list for 10 days following treatment.

§319.111. Bleeders and Furosemide Program.

(a) Diagnosis of EIPH.

(1) A bleeder is a horse that experiences Exercise Induced Pulmonary Hemorrhage (EIPH). Except as otherwise provided by this subsection, the medical diagnosis of EIPH may be made only by a commission veterinarian or a veterinarian currently licensed by the Commission. If the first EIPH event experienced by a horse occurs in another pari-mutuel racing jurisdiction, certification of the horse as a bleeder by that foreign jurisdiction will also constitute a first report of a diagnosed EIPH event for purposes of this section. A veterinarian who diagnoses an EIPH event in a horse participating in pari-mutuel racing in this state shall report the event to the commission veterinarian in a format prescribed by the executive secretary. On receipt of the first report of a diagnosed EIPH event for a horse, the commission veterinarian shall certify the horse as a bleeder.

(2) A trainer may request that a commission veterinarian reconsider the commission veterinarian's diagnosis of an EIPH event by presenting the horse for re-examination within four hours of the initial diagnosis, or within one hour after a performance's last race, whichever occurs sooner. To receive reconsideration, the trainer must present the horse to the commission veterinarian for endoscopic examination as performed by a commission-licensed veterinarian.

(b) - (d) (No change.)

(e) Withdrawal from Furosemide Program.

(1) To withdraw a horse from the furosemide program, the trainer must state his/her intention to race the horse without furosemide at the time of entry. [apply to the commission veterinarian. The commission veterinarian may require a signed medical statement from the trainer's regular practicing veterinarian that it is in the horse's best interest to be withdrawn from the furosemide program. The commission veterinarian may also request any other additional information the

commission veterinarian needs to justify removal of the horse from the furosemide program. A withdrawal request and all accompanying information must be reviewed and a decision rendered by the commission veterinarian as soon as practicable.]

(2) A horse in the furosemide program that competes out-of-state without furosemide is considered to have been removed from the Texas furosemide program effective the date of its first race without furosemide. [may not compete without furosemide until its withdrawal from the program has been approved by the commission veterinarians.]

(3) Withdrawal from the furosemide program does not prohibit a horse from subsequent readmission to the program in accordance with this section.

(f) Readmission to the Furosemide Program. A horse may be readmitted to the furosemide program if:

(1) at least 60 days have elapsed since the horse was withdrawn from the program;

(2) the horse is required to compete with furosemide pursuant to subsection (b)[(a)](2) of this section; or

(3) the commission veterinarian diagnoses the horse with another EIPH event.

(g) Bleeders List.

(1) The commission veterinarian shall maintain a list of horses that have been certified as bleeders and a list of horses that have been admitted to the furosemide program.

(2) On receipt of a report of a diagnosed EIPH event, the commission veterinarian shall place the horse on the veterinarian's list and the horse shall be ineligible to race for the following time periods:[-]

(A) First incident - 12 days;

(B) Second incident within 365 days of previous incident - 30 days;

(C) Third incident within 365 days of previous incident - 180 days;

(D) Fourth incident within 365 days of previous incident - lifetime ban from racing in this state. [For the first diagnosed EIPH event, a horse shall be placed on the veterinarian's list and is ineligible to start in a race before the 12th day after the date of the EIPH event. For the second diagnosed EIPH event, a horse shall be placed on the veterinarian's list and is ineligible to start in a race before the 30th day after the date of the second EIPH event. For the third diagnosed EIPH event, a horse shall be placed on the veterinarian's list and is ineligible to start in a race before the 180th day after the date of the third EIPH event. For the fourth diagnosed EIPH event, a horse is barred from pari-mutuel racing in this state.]

(3) A horse with fewer than four EIPH events that has not had a diagnosed EIPH event for a period of 365 consecutive days is considered a non-bleeder for purposes of this subsection [paragraph]. The report of a diagnosed EIPH event from any pari-mutuel jurisdiction which officially records EIPH events will be recognized as an EIPH event by the Commission.

(4) [(3)] Notwithstanding the foregoing, if after reviewing a report of a diagnosed EIPH event the commission veterinarian determines additional days on the veterinarian's list are essential to the health and safety of the horse, the commission veterinarian may extend the number of days the horse is on the veterinarian's list. The commission veterinarian shall record the medical reasons for the additional days.

(h) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701272

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 833-6699



SUBCHAPTER C. TREATMENT OF GREYHOUNDS

16 TAC §§319.202, 319.203, 319.204

The amendments are proposed under the Texas Civil Statutes, Article 179e, §§3.02, which authorizes the Commission to make rules relating to all aspects of greyhound and horse racing, and §3.07, which requires the commission to make rules specifying the authority and duties of race officials.

The amendments implement Article 3 of Texas Civil Statutes, Article 179e.

§319.202. *Veterinarian's List.*

(a) (No change.)

(b) The commission veterinarian shall notify the kennel owner or trainer of a greyhound placed on the veterinarian's list not later than 24 hours after placing the greyhound on the list.

(c) - (f) (No change.)

§319.203. *Condition of Greyhounds and Inspection of Kennels.*

(a) To ensure the health and safety of each greyhound, the The commission veterinarian shall monitor the condition of the greyhounds and inspect each kennel on association grounds where greyhounds are housed.

(b) On each race day, the commission veterinarian shall monitor the condition of the greyhounds. Factors the commission veterinarian shall evaluate include, but are not limited to:

- (1) the general physical condition of the greyhounds;
- (2) the general manner of handling the greyhounds;
- (3) the management of bitches in season;
- (4) the management of sick greyhounds;
- (5) the medication in use; and
- (6) the presence of ectoparasites.

(c) If the commission veterinarian determines that an unsatisfactory condition exists, the veterinarian shall advise the kennel owner or trainer of the unsatisfactory condition. If the unsatisfactory condition persists, or if the unsatisfactory condition requires immediate corrective action, the commission veterinarian shall advise the kennel owner or trainer of the unsatisfactory condition and shall report the condition to the judges.

(d) At tracks that operate year-round, the commission veterinarian shall conduct kennel inspections semi-annually as directed by the executive secretary. At tracks that do not operate year-round, the

commission veterinarian shall conduct a kennel inspection at the beginning of each race meet.

(e) ~~[(b)]~~ The commission veterinarian shall file a written report on each inspection with the executive secretary, on a prescribed form. The report must include, but is not limited to, a statement of the kennel conditions or practices regarding:

- ~~[(1)]~~ the general physical condition of the greyhounds;
- ~~[(2)]~~ the general manner of handling the greyhounds;
- ~~[(1)]~~ ~~[(3)]~~ the food and the food storage;
- ~~[(2)]~~ ~~[(4)]~~ the sanitary conditions of the kennels ~~[and turn-out pens];~~
- ~~[(5)]~~ management of bitches in season;
- ~~[(6)]~~ management of sick greyhounds;
- ~~[(7)]~~ the medication in use;]
- ~~[(8)]~~ presence of ectoparasites; and]
- ~~[(3)]~~ the maintenance of the kennel buildings;
- ~~[(4)]~~ the maintenance of the turnout pens;
- ~~[(5)]~~ the maintenance of the sprint path;
- ~~[(6)]~~ the maintenance of the lockout kennel;
- ~~[(7)]~~ the maintenance of the paddock area; and
- ~~[(8)]~~ ~~[(9)]~~ other matters that the commission veterinarian considers necessary for corrective action by the kennel owner or the association.

§319.204. *Vaccination Requirements.*

(a) - (b) (No change.)

(c) The association may not permit a greyhound to enter its grounds unless the trainer or kennel owner of the greyhound provides to the association proof of the necessary vaccinations and has a health certificate, entry permit or veterinarian inspection ~~[pursuant to the rules of the Texas Animal Health Commission].~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701273

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 833-6699



CHAPTER 321. PARI-MUTUEL WAGERING

SUBCHAPTER C. REGULATION OF LIVE WAGERING

DIVISION 2. DISTRIBUTION OF PARI-MUTUEL POOLS

16 TAC §321.313

The Texas Racing Commission proposes an amendment to 16 TAC §321.313, which relates to the distribution of the pari-mutuel

pool for winners of the Select Three, Four or Five wager. The rule currently specifies that the Select Three pool will be calculated as a "Win Pool," meaning that each entry in a dead heat receives an equal price payout. The amendment will change the calculation to a "Profit Split" payout, meaning that the payouts in a dead heat will be weighted according to the actual amount of money wagered on the winning combinations. The proposal will not change the payouts for the Select Four or Five wagers.

The proposed rule is consistent with the model rule for Win Three Pools as published by the Association of Racing Commissioners International.

Charla Ann King, Executive Secretary for the Texas Racing Commission, has determined that for the first five year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the amendment.

Ms. King has also determined that for each year of the first five years the amendment is in effect the anticipated public benefit will be that the wagering public will collect from Select Three wagers involving dead heats in a manner that is more consistent with the amounts wagered on each winning combination.

There is no anticipated economic cost to an individual required to comply with the proposed amendment.

There are no foreseeable implications relating to costs or revenues for small or micro-businesses as a result of enforcing or administering the proposed amendment.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Gloria Giberson, Assistant to the Executive Secretary for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing, and §11.01, which requires the Commission to adopt rules regulating pari-mutuel wagering on greyhound and horse racing.

The amendment implements Texas Civil Statutes, Article 179e.

§321.313. *Select Three, Four, or Five.*

(a) - (i) (No change.)

(j) In the event of a dead heat for win between two or more animals:

(1) in a select three, [~~four or five race,~~] all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated: [~~as a win pool.~~]

(A) As a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then

(B) As a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then

(C) As a single price pool to those who selected the first place finisher in any one of the three contests; but if there were no such wagers, then in accordance with paragraph (f) of this section.

(2) in a select four or five race, all the animals in the dead heat for win shall be considered as winning animals in the race for the purpose of calculating the major or minor pools and the affected pool is calculated as a win pool.

(k) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701268

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 833-6699



TITLE 19. EDUCATION

PART 8. WINDHAM SCHOOL DISTRICT

CHAPTER 300. GENERAL PROVISIONS

19 TAC §300.3

The Windham School District Board of Trustees files this notice of intent to propose a new §300.3, Employment Referral Services for Offenders, which authorizes the District to adopt a memorandum of understanding (MOU) between the Texas Department of Criminal Justice (TDCJ), the Texas Workforce Commission (TWC), the Texas Youth Commission (TYC), and the Windham School District (WSD).

The purpose of the rule is to establish the responsibilities of each agency in the administration of the Project for Reintegration of Offenders (Project RIO).

David McNutt, Chief Financial Officer for the Windham School District, has determined that, for the first five (5) years the rule will be in effect, enforcing or administering the rule will not have foreseeable implications related to costs or revenues for state or local government.

Mr. McNutt has also determined that, for the first five (5) year period, there will not be an economic impact on persons required to comply with the rule. There will not be an effect on small or micro businesses. The anticipated public benefit, as a result of enforcing the rule, will be to provide employment referral services for offenders for their successful reentry into the community.

Comments should be directed to Michael P. Mondville, General Counsel, Windham School District, P.O. Box 40, Huntsville, Texas 77342, Michael.Mondville@wsdtx.org. Written comments from the general public should be received within 30 days of the publication of this rule.

The new rule is proposed under Texas Government Code, §501.095 and Texas Labor Code, §306.004 and §306.005.

Cross Reference to Statutes: Texas Education Code, §19.011 and Texas Government Code §771.001, et seq.

§300.3. Employment Referral Services for Offenders--Memorandum of Understanding.

(a) The Windham School District Board (WSD) of Trustees adopts the following memorandum of understanding (MOU) with the Texas Workforce Commission, the Texas Youth Commission (TYC) and the Texas Department of Criminal Justice (TDCJ). Figure: 19 TAC §300.3(a)

(b) This MOU is required by the Texas Government Code, §501.095 and Texas Labor Code, §306.004 and §306.005.

(c) Copies of the MOU are filed in the WSD Administration Building, 804 F.M. 2821 West, Huntsville, Texas 77320 and may be reviewed during regular business hours.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701255

Michael Mondville

General Counsel

Windham School District

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 463-0422



TITLE 22. EXAMINING BOARDS

PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 75. RULES OF PRACTICE

22 TAC §75.7

The Texas Board of Chiropractic Examiners (TBCE or Board) proposes an amendment to §75.7 (Required Fees and Charges) to adopt two new fees: a new \$10.00 fee for the sale of copies of the statutes and rules and a second new \$55.00 fee for an online jurisprudence course (seminar) to be presented by the Board. The Board also proposes to reformat the graphic which lists agency fees, with the only fee changes being the addition of the two new fees referenced above.

The action is proposed to improve services for agency licensees, the public, and other stakeholders and to generate additional revenue sufficient to at least cover the anticipated direct and indirect costs of providing these services.

Glenn Parker, Executive Director, has determined that, for the first five-year period the amended rule is in effect, there will be no fiscal impact for local government as a result of enforcing or administering the rule. There will be no mandatory cost to the general public or to small or micro-businesses or individuals associated with this rule amendment. Persons who wish to purchase a copy of the statutes and rules would have to pay the \$10 fee. The statutes and rules are also available for free on the web: statutes, <http://t1o2.tlc.state.tx.us/statutes/statutes.html>; rules, <http://www.sos.state.tx.us/tac/index.shtml>. Licensed doctors of chiropractic that choose to take advantage of the seminar would be required to pay the fee.

Mr. Parker has determined that the financial impact on state revenues or expenditures will be an increase of \$10,500 in both revenues and expenditures for each fiscal year the fees are in effect.

In addition, Mr. Parker has determined that, for the first five-year period the rule is in effect, the public benefit will be that agency licensees, the public, and other stakeholders can more easily obtain printed copies of the statutes and rules that govern the practice of chiropractic in Texas. In addition, the seminar will allow licensed doctors of chiropractic in Texas to be better informed on the current statutes and rules under which they practice, thereby enhancing adherence to state law and better protection of patients.

Comments on the proposed amendment to the rule may be submitted in writing within 30 days after the publication of the proposal in the *Texas Register* to Glenn Parker, Executive Director, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701.

The amendment is proposed under the Texas Occupations Code (TOC), §201.153 (Fees), which provides the Texas Board of Chiropractic Examiners with the authority to set fees in amounts reasonable and necessary to cover the costs of administering TOC Chapter §201 (the Chiropractic Act).

No other code, article, or statute is affected by this proposed amendment.

§75.7. Required Fees and Charges.

(a) Current fees required by the board are as follows:

Figure: 22 TAC §75.7(a)

(b) - (e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701263

Glenn Parker

Executive Director

Texas Board of Chiropractic Examiners

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 305-6901



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 2. EMERGENCY PREPAREDNESS

25 TAC §2.1

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §2.1, concerning the Preparedness Coordinating Council (PCC).

BACKGROUND AND PURPOSE

The amendments are necessary to comply with Health and Safety Code, §11.016, which authorizes the Health and Human Services Commission to establish advisory committees and Title 42 United States Code §247d-3a(b), which requires an advisory committee or other similar mechanism to provide the department with advice on public health preparedness. The

PCC is governed by the Government Code, Chapter 2110, concerning state agency advisory committees.

Government Code, §2001.039, requires that each state agency review and consider for reoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Section 2.1 has been reviewed, and the department has determined that reasons for adopting the rule continue to exist because a rule on this subject is needed.

SECTION-BY-SECTION SUMMARY

Amendments to §2.1 update legacy agency references; modify wording and punctuation of the rule for clarification; amendments to §2.1(f) increase the number of council members from 17 to 24 to include additional members required by the Centers for Disease Control and Prevention Pandemic Influenza cooperative agreement guidance; and amendments to §2.1(m) abolish the Hospital Preparedness Planning Committee and the Bioterrorism Preparedness and Response Committee.

FISCAL NOTE

Martha McGlothlin, Section Director, Community Preparedness Section, has determined that, for each year of the five-year period that the section will be in effect, there will be fiscal implications to state government as a result of enforcing and administering the section as proposed. There is a potential fiscal impact for travel reimbursement of the additional seven PCC members (dependent upon the geographical location of the new members). The cost for travel reimbursement is unknown at this time but is expected to be minimal. Travel expenses will be reimbursed through the Centers for Disease Control and Prevention Cooperative Agreement U90/CCU617001-07. There are no fiscal implications to local government.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. McGlothlin has also determined that there will be no effect on small businesses or micro-businesses required to comply with the section as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the section. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Ms. McGlothlin has also determined that, for each year of the five years that the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section is to better prepare the state to respond to public health emergencies.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of a state or sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Trish Taylor, MC-1990, Community Preparedness Section, Division of Prevention and Preparedness, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7122 or by e-mail to Trish.Taylor@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Cathy Campbell, certifies that the proposed rule has been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendment is authorized by Health and Safety Code, §11.016, which authorizes the Health and Human Services Commission to establish advisory committees; Title 42, United States Code, §247d-3a(b), which requires an advisory committee or other similar mechanism to provide the department with advice on public health preparedness; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of the Health and Safety Code, Chapter 1001.

The proposed amendment affects Health and Safety Code, Chapters 11 and 1001 and Government Code, Chapter 531. Review of the section implements Government Code, §2001.039.

§2.1. *Preparedness Coordinating Council.*

(a) The council.

(1) The Preparedness Coordinating Council (PCC) [~~(council)~~] shall be appointed under and governed by this section.

(2) The PCC [~~(council)~~] is established under the Health and Safety Code, §11.016, which authorizes the Health and Human Services Commission (commission) [~~board~~] to establish advisory committees [~~(councils)~~] and Title 42 United States Code §247d-3a (b) which requires an advisory committee (or similar mechanism) to obtain input on preparedness planning.

(b) Applicable law. The PCC [~~(council)~~] is subject to the Government Code, Chapter 2110, concerning state agency advisory councils.

(c) Purpose. The purpose of the PCC [~~(council)~~] is to provide advice and assistance to the State Health Services Council (council) [~~Board of Health (board)~~] and the Department of State Health Services (department) in coordinating efforts to prepare the State [~~state~~] of Texas for bioterrorism attacks, other infectious disease outbreaks, and additional public health threats and emergencies.

(d) Tasks.

(1) The PCC [~~(council)~~] shall advise the council [~~board~~] concerning rules relating to major public health preparedness issues.

(2) The PCC [eouneil] will assist the department and the council [board] in coordinating preparedness and response planning and expenditures; [;] improving disease surveillance and detection; [;] developing epidemic response capabilities; [;] and addressing other public health emergency activities related to the department.

(3) The PCC [eouneil] shall carry out any other tasks assigned by the council [board].

(e) PCC [eouneil] abolished. By January 1, 2011 [2007], the Executive Commissioner of the Health and Human Services Commission [board] will initiate and complete a review of the PCC [eouneil] to determine whether the PCC [eouneil] should be continued, consolidated with another council, or abolished. If the PCC [eouneil] is not continued or consolidated, the PCC [eouneil] shall be abolished on that date.

(f) Composition. The PCC [eouneil] shall be composed of no more than 24 [47] members.

(1) The composition of the PCC [eouneil] shall reflect a broad spectrum of key preparedness partners. [include 5 consumer representatives; and 12 non-consumer representatives;]

(2) The members of the PCC [eouneil] shall be appointed by the Executive Commissioner of the Health and Human Services Commission. [commissioner of health (commissioner) as follows:]

[(A) 5 consumers representing the interests of the general public;]

[(B) 12 non-consumer members, including the following:]

[(i) 3 representatives of local health departments or local governments;]

[(ii) 3 representatives from emergency management entities;]

[(iii) 3 representatives from community hospitals or other community health providers; and]

[(iv) 3 representatives from universities or health science centers.]

(g) (No change.)

(h) Officers. The PCC [eouneil] shall select from its members the presiding officer and an assistant presiding officer.

(1) The presiding officer shall serve until December 31 of each even-numbered year. The assistant presiding officer shall serve until December 31 of each odd-numbered year. Both the presiding officer and the assistant presiding officer may holdover until his or her replacement is elected by the PCC [eouneil].

(2) The presiding officer shall preside at all PCC [eouneil] meetings which he or she attends, call meetings in accordance with this section, appoint subcommittees of the PCC [eouneil] as necessary, and cause proper reports to be made to the council [board]. The presiding officer may serve as an ex-officio member of any subcommittee of the PCC [eouneil].

(3) If the office of presiding officer or assistant presiding officer becomes vacant, it may be filled by vote of the PCC [eouneil].

(4) (No change.)

(5) The PCC [eouneil] may reference its officers by other terms, such as chairperson and vice-chairperson.

(i) Meetings. The PCC [eouneil] shall meet only as necessary to conduct PCC [eouneil] business.

(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the PCC [eouneil].

(2) Meeting arrangements shall be made by department staff. Department staff shall contact PCC [eouneil] members to determine availability for a meeting date and place.

(3) The PCC [eouneil] is not a "governmental body" as defined in the Open Meetings Act.

(4) Each member of the PCC [eouneil] shall be informed of a PCC [eouneil] meeting at least five working days before the meeting.

(5) A simple majority of the members of the PCC [eouneil] shall constitute a quorum for the purpose of transacting official business.

(6) The PCC [eouneil] is authorized to transact official business only when in a legally constituted meeting with a quorum present.

(7) The agenda for each PCC [eouneil] meeting shall include an opportunity for any person to address the PCC [eouneil] on matters relating to PCC [eouneil] business. The presiding officer may establish procedures for such public comment, including a time limit on each comment.

(j) Attendance. Members shall attend PCC [eouneil] meetings as scheduled. Members and subcommittee members shall attend meetings of subcommittees to which the members and subcommittee members are assigned.

(1) (No change.)

(2) It shall be grounds for removal from the PCC [eouneil] if a member or subcommittee member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, absence from more than half of the PCC [eouneil] and subcommittees meetings during a calendar year, or absence from at least three consecutive PCC [eouneil] meetings.

(3) The validity of an action of the PCC [eouneil] is not affected by the fact that it is taken when a ground for removal of a member exists.

(k) Staff. Staff support for the PCC [eouneil] shall be provided by the department.

(l) Procedures. Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.

(1) Any action taken by the PCC [eouneil] must be approved by a majority vote of the members present once a quorum is established.

(2) - (3) (No change.)

(4) The PCC [eouneil] shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, gender, religion, national origin, age, physical condition, or economic status.

(5) Minutes of each PCC [eouneil] meeting shall be taken by department staff.

(A) A draft of the minutes approved by the presiding officer shall be provided to the council [board] and each member of the PCC [eouneil] within 30 days of each meeting.

(B) After approval by the PCC [eouneil], the minutes shall be signed by the presiding officer.

(m) Subcommittees. [The council shall have a Hospital Preparedness Planning Committee (HPPC) and a Bioterrorism Preparedness and Response Committee (BRPC).] The PCC [council] may establish [other] subcommittees as necessary to assist the PCC [council] in carrying out its duties.

(1) [With the exception of the HPPC and the BRPC,] The [the] presiding officer shall appoint members of the PCC [council] to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer also may appoint nonmembers of the PCC [council] to serve on subcommittees, subject to the approval of the Executive Commissioner of the Health and Human Services Commission [Commissioner]. The HPPC and the BRPC members shall be appointed by the Commissioner].

(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the PCC [council].

(3) A subcommittee chairperson shall make regular reports to the PCC [advisory council] at each PCC [council] meeting or in interim written reports as needed. The reports shall include an executive summary or minutes of each subcommittee meeting.

(n) Statement by members.

(1) The commission, the council [board], the department, and the PCC [council] shall not be bound in any way by any statement or action on the part of any PCC [council] member or subcommittee member except when a statement or action is in pursuit of specific instructions from the commission, council [board], department, or PCC [council].

(2) The PCC [council] and its members or subcommittee members may not participate in legislative activity in the name of the commission, the council [board], the department, or the PCC [council] except with approval through the department's legislative process. PCC [Council] members are not prohibited from representing themselves or other entities in the legislative process.

(3) A PCC [council] member or subcommittee member should not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(4) A PCC [council] member or subcommittee member should not disclose confidential information acquired through his or her committee membership.

(5) A PCC [council] member or subcommittee member should not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of another person.

(6) A PCC [council] member or subcommittee member who has a personal or private interest in a matter pending before the committee shall publicly disclose the fact in a committee meeting and may not vote or otherwise participate in the matter. The phrase "personal or private interest" means the committee member has a direct pecuniary interest in the matter but does not include the committee member's engagement in a profession, trade, or occupation when the member's interest is the same as all others similarly engaged in the profession, trade, or occupation.

(o) Reports to council [board]. The PCC [council] shall file an annual written report with the council [board].

(1) The report shall list the meeting dates of the PCC [council] and any subcommittees, the attendance records of its members, a brief description of actions taken by the PCC [council], a description of how the PCC [council] has accomplished the tasks given to the PCC [council] by the council [board], the status of any rules which were rec-

ommended by the PCC [council] to the council [board], and anticipated activities of the PCC [council] for the next year.

(2) The report shall identify the costs related to the PCC's [council's] existence, including the cost of agency staff time spent in support of the PCC's [council's] activities and the source of funds used to support the PCC's [council's] activities.

(3) The report shall cover the meetings and activities in the immediately preceding fiscal year and shall be filed with the council [board] each January. The report shall be signed by the presiding officer [commissioner].

(p) Reimbursement for expenses. In accordance with the requirements set forth in the Government Code, Chapter 2110, a PCC [council] member or subcommittee member may receive reimbursement for the member's expenses incurred for each day the member engages in official PCC [council] business if authorized by the General Appropriations Act or the budget execution process.

(1) No compensatory per diem shall be paid to PCC [council] members or subcommittee members unless required by law.

(2) A PCC [council] member or subcommittee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

(3) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each PCC [council] meeting.

(4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.

TRD-200701174

Cathy Campbell

General Counsel

Department of State Health Services

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 458-7111 x6972

TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 30. OCCUPATIONAL LICENSES AND REGISTRATIONS

The Texas Commission on Environmental Quality (TCEQ or commission) proposes the repeal of §§30.28, 30.125, 30.210, 30.246, 30.318, 30.319, 30.349, and 30.399; new §§30.28, 30.210, 30.213, 30.214, 30.319, and 30.500 - 30.508; and amendments to §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.30, 30.33, 30.51, 30.60, 30.81, 30.90, 30.92, 30.111, 30.120, 30.122, 30.129, 30.171, 30.180, 30.185, 30.190, 30.192, 30.201, 30.212, 30.231, 30.240, 30.242, 30.244, 30.245, 30.247, 30.261, 30.270, 30.272, 30.274, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.337, 30.340,

30.342, 30.350, 30.355, 30.381, 30.387, 30.390, 30.392, and 30.400.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

During the 77th Legislature, 2001, Regular Session, House Bill (HB) 3111 was passed which created Texas Water Code (TWC), Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the TCEQ. In December 2001 agency rules were adopted which consolidated the ten occupational licensing programs into Chapter 30. Since their adoption, there have been no major reviews or changes to the rules with the exception of implementation of HB 2510, 79th Legislature, 2005, Regular Session, related to on-site sewage facility maintenance providers. The proposed repeals, new additions, and amendments are necessary to ensure consistency between the rules and their applicable statutes. The proposed amendments would make grammatical and punctuation corrections and incorporate language modifications needed to improve readability and enhance enforceability. The proposed amendments would also provide consistency and further establish uniform procedures for issuing and renewing licenses, setting terms and fees, approving training and training providers, and enforcing licensing requirements. Additionally, the proposed amendments would remove any requirements or references to dates that are no longer applicable.

The proposed rules would modify provisions to allow for the approval of training providers who offer training and certification of Visible Emissions Evaluators; establish fees for reviewing and processing applications received for approval of training; address requirements for Web-based testing for licensure; address the license renewal requirements for individuals on active military duty outside Texas; adjust the current fees for obtaining initial and renewing licenses and registrations; change the validity period of two-year licenses and registrations to three years; adjust the training credit hour requirements for Customer Service Inspectors; remove the licensing requirement for individuals who supervise or manage the collection or transportation of municipal solid waste; establish a level of license required to operate specific types of municipal solid waste facilities; add a transitional period to eliminate the municipal solid waste Class D license and provisional or solid waste facility supervisor in training letters; and remove the definition of process control duties for public water system operators from the Chapter 30 rules and transfer the definition to the public drinking water rules located in Chapter 290.

SECTION BY SECTION DISCUSSION

Subchapter A: Administration of Occupational Licenses and Registrations.

The proposed amendments to §30.3, Purpose and Applicability, would remove §30.3(b), which is no longer applicable because it applies to applications for the issuance or renewal of licenses or registrations that are received on or after January 1, 2002, and states that maintenance providers are not required to obtain a registration as a maintenance provider prior to September 1, 2006. The amendments would also add visible emissions evaluator training providers to the list of programs the agency currently administers. Changes in the numbering to this provision are proposed where necessary to reflect the changes.

The proposed amendments to §30.5, General Provisions, would add Texas Occupations Code, §1903.251, to the list of statutes

that describe activities that are regulated by the commission. The proposed amendment to §30.5, would also remove the reference to Texas Water Code, §34.007, which no longer exists. Additionally, the commission has proposed changes to this section to improve its readability and enhance its enforceability.

The proposed amendments to §30.7, Definitions, would add the following definitions to the rules for clarity: Conference, Distance learning, Distributor, High school diploma or equivalent certificate, Industry related association, Manufacturer, Qualified classroom instructor, Service provider, Subject matter expert, Technology-based training, and Training provider. Changes in the numbering to this provision are proposed where necessary to reflect the changes.

The proposed amendments to §30.10, Administration, would add the duty of approving training providers to the executive director's responsibilities. The proposed amendments would also require the executive director to respond to complaints filed against training providers. This proposed change is under Texas Water Code, §37.008. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.14, Applications for Initial Registrations, would add §30.14(e) to require that all statements, qualifications, and attachments that are provided by the applicant and that relate to an application shall be true, accurate, complete, and contain no willful or negligent misrepresentation or falsification. This proposed change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite as a violation. The commission proposes additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.18, Applications for an Initial License, would add §30.18(f) to require that all statements, qualifications, and attachments that are provided by the applicant and that relate to an application shall be true, accurate, complete, and contain no willful or negligent misrepresentation or falsification. This proposed change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite as a violation. The commission proposes additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.20, Examinations, would add §30.20(c) - (h) to clarify the existing requirements for individuals who need to take repeat examinations. Additionally, the commission proposes §30.20(i) to allow individuals who may be precluded from taking an examination scheduled to be administered by the agency on a religious holy day to take the examination on an alternate date set by the executive director. This addition is necessary to comply with Texas Occupations Code, §54.002(a). Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.24, License and Registration Applications for Renewal, are required by Texas Occupations Code, §55.002, and would add §30.24(f) - (i), to allow individuals who fail to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces

outside this state to renew their license within 180 days of that individual's return from active duty and exempt that individual from any increased fee or penalty if the individual establishes that he/she was on active duty in the United States armed forces and serving outside this state during the renewal period of their license.

The proposed addition to §30.24(c), would require all statements, qualifications, and attachments that are provided by the applicant and that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification. This proposed change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite to as a violation. The commission proposes additional language in this subsection to improve its readability, and enhance its enforceability. The addition of §30.24(p), is proposed to clarify what will occur when an individual fails to correct deficiencies in a renewal application after the individual is sent a notification of the deficiencies by the executive director. The proposed amendments would also remove the existing §30.24(f), as there is no statutory authority for this subsection. The commission proposes additional language to this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed repeal of §30.28, Approval of Training, would delete this section in its entirety and replace it with new §30.28, that would incorporate basic components of the agency's existing regulatory guidance document, RG-373, relating to the approval of training used to meet pre-licensing requirements and post-licensing continuing education requirements for occupational licenses and registrations. This incorporation provides a mechanism to implement and enforce the requirements of the most crucial activities that are performed by training providers. The proposed new section would also establish fees for reviewing and processing applications for training program approval that are received by the commission. Texas Water Code, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30.

The proposed amendments to §30.30, Terms and Fees for Licenses and Registrations, would adjust those licenses or registrations that have a two-year validity period to have a three-year validity period. This change would provide consistency between all licensing programs that are administered by the agency. The proposed amendments would also adjust the license fee from \$35 per year to \$37 per year. The proposed fee adjustment covers the cost for the license renewal process through TexasOnline (TxOnline). TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Additionally, Texas Government Code, §2054.111, authorizes the commission to collect subscription fees charged by TxOnline.

The proposed amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation, would remove §30.33(a)(1)(B) and create §30.33(a)(2)(G), because the denial of a renewal application for this situation must allow the individual the opportunity for a hearing. The proposed amendments would also add provisions to allow the commission to suspend a license or registration if an individual is identified by the Office of the Attorney General as being delinquent on child support

payments. This change is necessary to comply with the Texas Family Code, Chapter 232. Additionally, the proposed amendments would also restructure the section and modify some of the existing language to improve its readability and make it consistent with the relevant statute. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

Subchapter B: Backflow Prevention Assembly Testers.

The proposed amendment to §30.51, Purpose and Applicability, would delete §30.51(c) in its entirety. This section allows individuals to transition their backflow prevention assembly tester accreditation to a license. This language is no longer applicable.

The proposed amendments to §30.60, Qualifications for Initial License, would add language to clarify and specify the duties the executive director will accept as approved areas of work to gain the experience necessary to obtain a Backflow Prevention Assembly Tester license. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

Subchapter C: Customer Service Inspectors.

The proposed amendment to §30.81, Purpose and Applicability, would change the term "may" to "shall," to enhance the enforceability of the rules.

The proposed amendments to §30.90, Qualifications for Initial License, would restructure the section to improve its readability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendment to §30.92, Qualifications for License Renewal, would adjust the continuing education requirements for customer service inspectors from 24 hours to 16 hours. Based on input from the regulated community and agency staff assessment, it was determined that 16 hours is sufficient for the three-year validity period. This adjustment would still provide sufficient continuing education necessary to protect the environment and public health.

Subchapter D: Landscape Irrigators and Installers.

The proposed amendment to §30.111, Purpose and Applicability, would delete §30.111(c) in its entirety. This section allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The proposed amendment to §30.120, Qualifications for Initial License, would modify the existing language to improve its readability and enhance its enforceability.

The proposed amendment to §30.122, Qualifications for License Renewal, would remove the reference to January 1, 2002, which is no longer applicable. The proposed amendments would also adjust the number of training credits required to renew landscape irrigator licenses from 16 hours to 24 hours. This change is necessary because of the proposed amendment to the rules that would adjust the validity period of the licenses from two years to three years.

The proposed repeal of §30.125, Renewal of Certificates of Registrations, would repeal this section in its entirety. This section contains language to transition the landscape irrigator and installer licenses from one-year to two-year licenses, and it is no longer applicable.

The proposed amendments to §30.129, Exemptions, would modify some of the existing language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

Subchapter E: Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists.

The proposed amendment to §30.171, Purpose and Applicability, would repeal §30.171(d) in its entirety. This section allows registrations issued before January 1, 2002, to remain in effect until they expire, or are replaced or revoked by the commission. This language is no longer applicable.

The proposed amendment to §30.180, Qualifications for Initial License, would change the term "preceding" to "previous." This change would provide consistency throughout this section.

The proposed amendments to §30.185, Qualifications for License Renewal, would change the number of training credits required to renew a license to 32 hours, instead of 16 hours, as is currently required by §30.185(a)(2). This proposed change will correct a typographical error that exists in the current provision. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendment to §30.190, Qualifications for Initial Registration, would clarify the amount of liability insurance required and would change the term "preceding" to "previous." This change would provide consistency throughout this section. Additionally, the proposed amendment would adjust the initial registration fee from \$150 to \$232. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The proposed amendment to §30.192, Qualifications for Registration Renewal, would adjust the renewal registration fee from \$150 to \$232. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

Subchapter F: Municipal Solid Waste Facility Supervisors.

The proposed amendment to §30.201, Purpose and Applicability, would revise §30.201(a) and (b) to eliminate licensing requirements for individuals who supervise the collection or transportation of municipal solid waste (MSW). This proposed amendment is necessary to make the rule consistent with the relevant statute.

The proposed amendments to §30.201, would modify §30.201(c), to remove the January 1, 2004, date referenced because it is no longer applicable. The proposed amendments to this section would also establish a transition period to eliminate the issuance of provisional or solid waste facility supervisor in training letters. This change is necessary because under the current rules, individuals who have been issued provisional licenses or supervisor-in-training letters perform the same du-

ties as those individuals that hold standard licenses, and those individuals may not have met the educational or experience requirements for a standard license. The proposed rules would include a transitional period to allow individuals and facilities to comply with the new rules.

The proposed amendments to §30.201, would add §30.201(d), which would also eliminate the issuance of Class D MSW supervisor licenses and establish a date when new applications for the Class D license would not be accepted. Class D issued licenses will remain in effect until they expire.

The proposed amendment to §30.210, Qualifications for Initial License, would specify the education, work experience, and training credits for each license class in a tabular format for clarity and conciseness. The proposed amendment would remove the applicant qualifications for obtaining a Class D license because this class of licenses is being eliminated.

The proposed amendment to §30.212, Qualifications for License Renewal, would eliminate the training credit requirements for a Class D license because this class of licenses is being eliminated. Changes in the numbering to this section have been proposed where necessary to reflect the changes and improve readability.

The commission proposes new §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required, to specify the different classes of licenses that supervisors are required to obtain based on the complexity of municipal solid waste operations. The commission proposes that: a Class A license be required for Type I landfills and Type IX landfill mining operations; a Class B license be required for Type IV landfills, Type V storage and processing facilities, other Type IX energy or material recovery facilities, and permitted compost facilities; and a Class C license be required for Type I and Type IV landfills that qualify for the arid exemption specified in §330.5(b), (relating to Classification of Municipal Solid Waste Facilities). The proposed new section would also include the effective date for facilities to comply with the requirements of §30.213. Further, the proposed addition of §30.213(b), would allow the facility's permit to supersede the requirements of §30.213(a). Proposed §30.213(a), requires that each MSW facility employ at least one licensed individual who supervises or manages the operations of a MSW facility and is licensed according to this chapter.

The commission proposes new §30.214, Exemptions, to exempt individuals who perform relatively low-risk MSW management activities that are related to Type IX beneficial landfill gas recovery facilities, animal crematories, dual chamber incinerators, and air curtain incinerators operating in accordance with an MSW permit by rule from the applicable licensing requirements. The commission also proposes to exempt individuals who supervise MSW facilities that are exempt from the permitting requirements of §330.7, and that are exempt from the permit required or registration requirements of §330.9, Registration Required, unless otherwise described in §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required.

Subchapter G: On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators.

The proposed amendment to §30.231, Purpose and Applicability, would repeal §30.231(d), in its entirety. This subsection allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

Changes in the numbering to this section have been proposed where necessary to reflect the changes and improve readability.

The proposed amendment to §30.240, Qualifications for Initial License, would adjust the requirements for obtaining an Installer II license from holding an Installer I license for six months and possessing an apprentice registration for at least one year before June 13, 2001, to holding an apprentice license for at least two years or previously possessing an Installer II license. The proposed amendments would also modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendment to §30.242, Qualifications for License Renewal, would adjust the number of continuing education hours required to renew On-Site Sewage Facility program licenses from 16 hours to 24 hours. This change is necessary because of the proposed amendment to the rules that adjusts the validity period of the licenses from two years to three years. The proposed change would also remove the second sentence from §30.242(a)(2), as it is no longer applicable.

The proposed amendment to §30.244, Exemptions, would add language to §30.244(c) that was repealed from §30.246 which allows a professional engineer to perform site evaluations without obtaining a site evaluator license and provides the individual the option to obtain a site evaluator license by complying with the requirements in Subchapter G.

The proposed amendments to §30.245, Registration of Apprentices, would modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this section have been proposed where necessary to reflect the changes. Additionally, the proposed amendment would adjust the initial registration fee for On-Site Sewage Facility (OSSF) apprentices from \$50 to \$81. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The proposed repeal of §30.246, Application for Site Evaluator, would repeal this section in its entirety. This section pertains to individuals who previously held a site evaluator license or had previously taken the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator license or meet the requirements necessary to obtain a site evaluator license before September 1, 2003, and it is no longer applicable.

The proposed amendment to §30.247, Registration of Maintenance Providers, would adjust the registration validity period from two years to three years and adjust the current \$70 initial registration and renewal fee to \$111. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. These proposed changes would provide consistency between all licensing programs.

Subchapter H: Water Treatment Specialists.

The proposed amendment to §30.261, Purpose and Applicability, would remove §30.261(c), because this section allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The proposed amendment to §30.270, Qualifications for Initial License, would reformat the current table that outlines the requirements for obtaining a water treatment specialist license. This change would improve the readability of the rule.

The proposed amendments to §30.272, Qualifications for License Renewal, would simplify the existing table for the training and experience requirements.

The proposed amendment to §30.274, Classification of Licenses, would modify and add to the current rule language to clarify, improve its readability, and enhance its enforceability. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

Subchapter I: Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration.

The proposed amendment to §30.301, Purpose and Applicability, would remove §30.301(c), which allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The proposed amendments to §30.307, Definitions, would change the terminology used in §30.307(6)(A) - (C) from "License" to "Class." This change would provide consistency throughout this subchapter.

The proposed amendments to §30.310, Qualifications for Initial License, would modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendment to §30.312, Qualifications for License Renewal, would remove the reference to January 1, 2002, which is no longer applicable.

The proposed amendments to §30.315, Qualifications for Initial Registration, would adjust the initial registration fee from \$150 to \$232. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing license and registration requirements issued under Chapter 30. The Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The proposed changes would also provide clarity to the amount of liability insurance required and would change the term "preceding" to "previous." This would provide consistency throughout this subchapter.

The proposed amendments to §30.317, Qualifications for Registration Renewal, would remove the reference to January 1, 2002, which is no longer applicable. The proposed changes would also adjust the renewal registration fee from \$150 to \$232. The proposed fee adjustment reflects the registration validity period going from two years to three years and is necessary to cover the cost for the license renewal process through TxOnline. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing license and reg-

istration requirements issued under Chapter 30. The Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The proposed changes would also provide clarity to the amount of liability insurance to be held by the registrant and would change the term "preceding" to "previous." This would provide consistency throughout this subchapter.

The proposed repeal of §30.318, Renewal of Licenses and Registrations Issued before the Effective Date of these Rules, would remove this section in its entirety as it is no longer applicable.

The proposed repeal of §30.319, Exemptions, would delete the section in its entirety and replace it with the new §30.319, which would modify the current structure of the section to improve its readability.

Subchapter J: Wastewater Operators and Operations Companies.

The proposed amendment to §30.337, Definitions, would be reflected in §30.337(8), by changing the term frequent to daily. This proposed change would specify when operators will provide on-site inspections and supervision. Additionally the proposed amendment to §30.337(12), would modify the definition to include decisions associated to process control.

The proposed amendment to §30.340, Qualifications for Initial License, would modify and add to the current rule language to clarify it, in regard to the substitution of college hours for required work experience.

The proposed amendment to §30.342, Qualifications for License Renewal, would modify and add to the current rule language to improve its readability regarding the amount of training credits needed for the renewal of a license.

The proposed repeal to §30.349, Registration Fees, would delete the section in its entirety and instead incorporate these same requirements into §30.355. This would clarify and improve the readability of the subchapter.

The proposed amendment to §30.350, Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required, would modify and add to the current rule language to improve its readability and enhance its enforceability with regards to the duty requirements of the licensed individuals. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendments to §30.355, Additional Requirements for Wastewater Operations Companies, would incorporate the requirements from the proposed repealed §30.349, Registration Fees, and would clarify and improve the readability of the subchapter. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations requirements issued under Chapter 30. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other proposed amendments to this section would change the requirement of companies submitting yearly reports to submitting a report at the time of renewal or when a company is bought or sold and the name of the company changes. The proposed changes would also decrease the amount of information having to be reported by the companies. The commission staff has determined that some of the information currently being reported

was information the commission already had and the effort was being duplicated. Additionally, it was determined that it would be more feasible to have the companies submit the reports at the time of their initial registrations and renewals. This proposed change would lessen the burden on both the companies and the commission.

Subchapter K: Public Water System Operators and Operations Companies.

The proposed amendment to §30.381, Purpose and Applicability, would add the term "operator" to clarify §30.381(c).

The proposed amendments to §30.387, Definitions, would remove the definition of "Process control duties." The Water Supply Division's Public Drinking Water Section agrees that this definition is best addressed by the Chapter 290 rules. The Water Supply Division's Public Drinking Water Section is currently revising the Chapter 290 rules and will incorporate this definition into their rules. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendments to §30.390, Qualifications for Initial License, would modify and add to the current rule language to provide clarity, improve the readability, and enhance enforcement. The proposed changes would also modify the current tables that outline the requirements for obtaining and renewing a water operator license to reflect changes to the number of training credits needed for each level of license. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendment to §30.392, Qualifications for License Renewal, would modify and add to the current rule language to clarify, improve the readability, and enhance enforcement with regards to the duties of the licensed individuals. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed repeal to §30.399, Registration Fees, would delete the section in its entirety and incorporate the requirements into §30.400. This would clarify and improve the readability of the subchapter.

The proposed amendments to §30.400, Additional Requirements for Public Water System Operations Companies, would incorporate the requirements from the proposed repealed §30.399, Registration Fees, into this section and would clarify and improve the readability of the subchapter. The proposed fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations requirements issued under Chapter 30. The Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other proposed amendments to this section would change the requirement of companies submitting yearly reports to submitting a report at the time of renewal or when a company is bought or sold and the name of the company changes. The proposed changes would also decrease the amount of information having to be reported by the companies. The commission staff has determined that some of the information currently being reported was information the commission already had on file and the effort was being duplicated. Additionally, it was determined that it would be more feasible to have the companies submit the reports at the time of their initial registrations and

renewals. This proposed change would lessen the burden on both the companies and the commission.

Subchapter L: Visible Emissions Evaluator Training and Certification.

The proposed creation of Subchapter L would establish qualifications to train and certify visible emissions evaluators.

The proposed creation of §30.500, Purpose and Applicability, would establish standards and qualifications for persons who train and certify visible emissions evaluators.

The proposed creation of §30.501, Definitions, would establish the definition of terms used in Subchapter L related to visible emissions evaluator training.

The proposed creation of §30.502, Term for Visible Emission Evaluator Certification, would establish the validity period for visible emissions evaluator certifications.

The proposed creation of §30.503, Visible Emission Evaluator Course Training Material and Course Approval, would establish the requirements necessary to have visible emissions evaluator training approved by the executive director.

The proposed creation of §30.504, Visible Emission Evaluator Training Provider Approval, would establish the requirements necessary to obtain executive director approval to be a visible emissions evaluator training provider.

The proposed creation of §30.505, Requirements for Visible Emission Evaluator Training Providers, would establish the duties required of visible emissions evaluator training providers.

The proposed creation of §30.506, Visible Emission Evaluator Training Requirements, would establish the requirements for the methods used for presenting training to visible emissions evaluators.

The proposed creation of §30.507, Field Training and Testing Requirements, would establish the requirements for the methods used in the field training and testing of visible emissions evaluators.

The proposed creation of §30.508, Disapproval of Visible Emission Evaluator Course Training, would establish the criteria to be used by the executive director in disapproving visible emissions evaluator training courses.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, fiscal implications, although not expected to be significant, are anticipated for the agency or other units of state or local governments as a result of administration or enforcement of the proposed rules. The agency is expected to experience some increase in revenue in the Occupational Licensing Account (Account 4680) as a result of the proposed rules. Other units of state or local governments may experience some increase in costs for licenses or training under the proposed rules if they elect to pay these costs for their employees.

The proposed rules would establish more uniform procedures for issuing licenses, renewing licenses, setting terms, setting fees, approving training materials, approving training providers, and enforcing licensing requirements required by Chapter 37 of the Texas Water Code (TWC) by amending appropriate sections of Texas Administrative Code (TAC), Chapter 30. The proposed

rules would also: provide consistency with the Texas Occupations Code regarding military personnel and religious holidays relating to license requirements; ensure that licensing periods are consistent between all agency licensing and registration programs; clarify and enhance the authority of the executive director in administering and regulating training programs; clarify which high school diplomas or equivalency certificates are acceptable for license applicants to have; and clarify other training, licensing, and registration issues. In addition, the proposed rules would allow the agency to increase fees for occupational licenses and registrations to cover the subscription cost of internet renewal through the TxOnline Web site and establish fees for the review and approval of training materials used by training providers. Additional fee revenue under the proposed rules is estimated to be \$190,863 each year for the first two years the proposed rules are in effect and \$157,026 each year for the third through fifth years, totaling an estimated five-year increase of \$852,804 for the Occupational Licensing Account (Account 4680). Revenue increases for licenses and registrations will be offset by agency subscription costs for using TxOnline.

Any cost increases for units of local government would depend on whether they choose to pay for licenses, registrations, or training costs for certain employees such as wastewater operators, municipal solid waste facility supervisors, or others. Any cost increases are not expected to have significant fiscal implications for individual local governments.

Revenue Increase for License and Registrations

The proposed rules would standardize the license and registration term to three years for individuals and entities, for Landscape Irrigators and Installers, Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialist, On-Site Sewage Facility (OSSF) Installers, OSSF Designated Representatives, OSSF Maintenance Providers, OSSF Site Evaluators, Underground Storage Tank On-Site Supervisors and Contractors, Class "D" Public Water System Operators, Class "D" Wastewater Treatment Facility Operators, Class "I" Wastewater Collection System Operators, Public Water System and Wastewater Operations Companies. Licenses and registrations can currently be applied for using the Internet at the TxOnline Web site. To cover the cost of subscription charges for the use of TxOnline, the proposed rules would increase the cost for most individuals for licenses and registrations by two dollars per year, or six dollars for the three-year term payable in the first year of application or renewal. License and registration costs for Leaking Petroleum Storage Tank Corrective Action Specialist and Underground Storage Tank On-Site Supervisors will increase an estimated three dollars per year, or nine dollars for a three-year period. Registration costs for water and wastewater operations companies will range from an estimated three dollars to twelve dollars a year, or nine dollars to thirty-six dollars for a three-year period depending on the size of the company. The total statewide estimated increase in license and registration fee revenue is expected to be \$134,268 per year for the first two years and \$100,431 per year for the third through fifth year the proposed rule is in effect. The revenue increase over the five-year period is estimated to be \$469,398.

Revenue Increase for Review/Approval of Training Materials

Currently agency staff does extensive review and revision of many training documents used by third party trainers in conferences and seminars. To cover the cost of detailed editing and correction, the proposed rules would allow the agency to collect training approval fees. Such fees would vary depending

on whether approval was needed for classroom instruction, distance learning, or seminars conducted at conferences or professional meetings. Training approval fees for conferences would range from a minimum of \$50 per request to a maximum of \$10 per credit hour, whichever is greater. Approval fees for classroom training using existing and agency approved manuals would range from a minimum of \$100 per request to a maximum of \$10 per credit hour, whichever is greater. Approval fees for new classroom training materials would range from a minimum \$100 per request to \$25 per credit hour, whichever is greater. Approval fees for distance learning materials would range from a minimum of \$100 per request to a maximum of \$25 per credit hour, whichever is greater. Training approval fees for association meetings would be \$10 per hour for single meetings, \$100 for single association chapters meeting more than once, and \$400 for associations with multiple chapters meeting more than once. Staff has estimated that total annual training approval fee revenue for Account 4680 could be as much as \$56,595 per year, or \$282,975 over five years.

PUBLIC BENEFITS AND COST

Ms. Chamness also determined that for each year of the first five years the proposed new rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be increased consolidation and standardization of the agency's occupational licensing programs which is expected to lead to more easily understood rules and greater compliance.

The proposed rules are expected to increase the licensing and registration costs for individuals, companies, and other entities using TxOnline to comply with the agency's occupational licensing programs. It is not expected that these cost increases to recover TxOnline subscription costs will have significant fiscal implications for regulated parties. Individuals and business entities could pay two to three dollars more per year, depending on the license or registration required, the first year of renewal for a three-year renewal period. Staff estimates that the statewide fiscal impact due to these fees will be \$134,268 each year for the first two years the rules are in effect and \$100,431 each year for the third through fifth year the rules are in effect. The total statewide cost for five years is estimated to be \$469,398 for using TxOnline to comply with agency requirements.

Training providers would pay training approval fees based on the type of training approved. It is expected that trainers would recover the cost of these fees from trainees, and costs to trainers for this fee are not expected to have significant implications for either the training provider or trainees. Training approval fee costs for the following training types could be as much as: \$80 per approval for conferences; \$200 per approval for classroom training using existing and agency approved manuals; \$375 per approval for classroom training using new manuals; \$150 per approval for distance learning courses; and from \$10 to \$400 per approval, depending on the number of meetings, for training material used at association meetings. Training approval costs could be as much as \$56,595 per year, or \$282,975 over a five-year period depending on the number of approvals required.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

Fiscal implications, although they are not anticipated to be significant, will occur for small or micro-businesses as a result of the proposed rules. It is not known how many small or micro-businesses will utilize TxOnline to renew licenses and registrations; nor is it known how many training providers are small or micro-businesses. However, small or micro-businesses will be

subject to the same fee increases under the proposed rules as those experienced by large businesses or individuals.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rules are not subject to that statute. Section 2001.0225 applies only to rules that are specifically intended to protect the environment, or reduce risks to human health from environmental exposure. During the 77th Legislature, 2001, Regular Session, House Bill (HB) 3111 was passed which created Texas Water Code (TWC), Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the Texas Commission on Environmental Quality (TCEQ). In December 2001, agency rules were adopted which consolidated the ten occupational licensing programs into Chapter 30. Since their adoption, there have been no major reviews or changes to the rules with the exception of implementation of HB 2510, 79th Legislature, 2005, Regular Session. The intent of the proposed rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuation corrections, and to modify or add language to improve readability and enhance enforceability. Protection of human health and the environment may be a by-product of the proposed rules, but it is not the specific intent of the rules. Furthermore, the proposed rules would implement new regulations to the agency's licensing and registration programs and impose additional cost requirements that are necessary to ensure more consistent operation and enforcement among the licensing and registration programs that the agency administers and would not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state, because the proposed rules would only make the existing rules for all of the licensing and registration programs more consistent and formalize many existing industry practices and procedures into rule-form. Thus, the proposed rules do not meet the definition of "a major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis. The commission invites comment on the draft regulatory impact determination.

TAKINGS IMPACT ASSESSMENT

The commission evaluated these proposed rules and performed an assessment of whether these proposed rules constitute a taking under Texas Government Code, Chapter 2007. The purpose of these proposed rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuation corrections, and to modify or add language to improve readability and enhance enforceability. Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations do not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and re-

duce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These proposed rules would only make non-substantive changes to the existing rules and proposed new regulations that do not affect private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the rulemaking is editorial, administrative, and procedural in nature and will have no substantive effect on commission actions subject to the CMP and is, therefore, consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

ANNOUNCEMENT OF HEARING

A public hearing on this proposal will be held in Austin on May 7, 2007, at 2:00 p.m. at the Texas Commission on Environmental Quality complex located at 12100 Park 35 Circle in Building E, Room 201S. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. A time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Lola Brown, Office of Legal Services, at (512) 239-0348. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments may be submitted to Lola Brown, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at <http://www5.tceq.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2006-041-030-CE. The comment period closes May 14, 2007. Copies of the proposed rules can be obtained from the commission's Web site at http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information, please contact Terry Thompson, Compliance Support Division, at (512) 239-6095.

SUBCHAPTER A. ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

30 TAC §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.28, 30.30, 30.33

STATUTORY AUTHORITY

These amendments and new sections are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments and new sections are also proposed under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing; TWC, §26.346, concerning Registration Requirements; TWC, §26.452, concerning Underground Storage Tank Contractor; TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing; and TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. These amendments and new sections are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new sections are also proposed under Texas Occupations Code (TOC), §1903.251, concerning License Required. These amendments and new sections are also proposed under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies; THSC, §341.102, concerning Water Treatment Specialist Certification Program; THSC, §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction; Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. These amendments and new sections are also proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, these amendments and new section are proposed under THSC, §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071 concerning Occupational Licensing and Registration. These proposed amendments and new sections implement TWC, §§5.013, 5.102, 5.103, 26.0301, 26.346, 26.452, 26.456, 26.3573, 37.001-37.015; TOC, §1903.251; and THSC, §§341.033, 341.034, 341.102, 361.002, 361.011, 361.022, 361.024, 361.027, 363.021, 363.022, 366.011, 366.012, and 366.071.

§30.3. Purpose and Applicability.

(a) The purpose of this chapter is to consolidate the administrative requirements and establish uniform procedures for the occupational licensing and registration programs prescribed by Texas Water Code, Chapter 37. This subchapter contains general procedures for issuing, renewing, denying, suspending, and revoking occupational licenses and registrations. Subchapters B - L [K] of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators and Installers; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators; Water Treatment Specialists; Under-

ground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; ~~[and] Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training Providers~~) contain the program-specific requirements related to each program.

~~[(b) This chapter applies to applications for issuance or renewal of licenses or registrations that are received on or after January 1, 2002, except that maintenance providers are not required to obtain a registration as a maintenance provider prior to September 1, 2006.]~~

~~(b)~~ ~~[(e)]~~ The requirements of this chapter apply to the following occupational licenses and registrations:

- (1) backflow prevention assembly testers;
- (2) customer service inspectors;
- (3) landscape irrigators and installers;
- (4) leaking petroleum storage tank corrective action specialists and project managers;
- (5) municipal solid waste facility supervisors;
- (6) on-site sewage facility installers, designated representatives, apprentices, maintenance providers, and site evaluators;
- (7) water treatment specialists;
- (8) underground storage tank contractors and on-site supervisors;
- (9) wastewater operators and operations companies; ~~[and]~~
- (10) public water system operators and operations companies; ~~and~~ ~~[-]~~
- (11) visible emissions evaluators training providers.

§30.5. General Provisions.

(a) A person must be licensed or registered by the commission before engaging in an activity, occupation, or profession described by Texas Water Code, §§26.0301, 26.3573, 26.452, 26.456, ~~[34.007,]~~ or 37.003, ~~[or]~~ Texas Health and Safety Code, §§341.033, 341.034, 341.102, 341.103, 361.027, 366.014, 366.071, 366.0515, ~~[-]~~ or Texas Occupations Code, §1903.251. The commission shall issue a license or registration only after an applicant has met the minimum requirements for a license or registration as specified in this chapter.

(b) A person shall ~~[may]~~ not advertise or represent themselves to the public as a holder of a license or registration unless that person possesses a current license or registration. A person shall ~~[may]~~ not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.

(c) (No change.)

(d) Licenses and registrations are not transferable ~~[transferable]~~.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter. Commission employees may maintain a license if that license was issued prior to employment with the commission.

§30.7. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Approved training event--Instructor-led classroom training, conferences, seminars, workshops, training at association

meetings, distance learning, or technology-based training that provides the knowledge and skills needed to perform occupational job tasks that have been reviewed and approved by the executive director.

(2) (No change.)

(3) Conference--The term conference as used in the context of this chapter includes conferences, seminars, workshops, symposiums, expos, and any other such training venues.

(4) ~~[(3)]~~ Continuing education--Job-related training approved by the executive director used for renewal of licenses and registrations.

(5) Distance learning--The acquisition of knowledge that occurs through various technologies with a separation of place and/or time between the instructor(s) or learning resources and the learner. Examples of distance education include, but are not limited to correspondence courses, CD-ROM courses, and Internet education on-line courses.

(6) Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses administered by the agency.

(7) High school diploma or equivalent certificate--A graduation diploma from a high school or a General Educational Development (GED) certification from an accrediting agency recognized by the United States Department of Education or other respective territory's or country's accreditation process if outside the United States.

(8) Industry related association--A nonprofit organization that represents members that possess occupational licenses issued by the agency.

(9) ~~[(4)]~~ License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(10) ~~[(5)]~~ Maintenance provider--A person that, for compensation provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(11) Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(12) ~~[(6)]~~ Person--As defined in §3.2 of this title (relating to Definitions).

(13) Qualified classroom instructor--An individual who has instructional experience, work related experience, and subject matter expertise that enable the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(14) ~~[(7)]~~ Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(15) Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(16) Subject matter expert--A person having work-related experience and expert knowledge in a particular content area or areas.

(17) ~~[(8)]~~ Training credit--Hours of credit allowed by the executive director for successful completion of [attendance at] an approved training event.

(18) Technology-based training--Training offered through computer equipment by compact disk (CD) or digital video disk (DVD) media, or on a Web site (also known as on-line training or e-learning).

(19) Training provider--An administrative entity or individual responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording and reporting attendance accurately and promptly as required by the executive director.

§30.10. Administration.

The executive director is responsible for:

(1) - (5) (No change.)

(6) establishing and collecting fees;

(7) approving training used for the issuance of training credits; [for licensing credits; and]

(8) approving training providers; and

(9) [{8}] responding to complaints against licensees, [and] registrants, and training providers.

§30.14. Applications for Initial Registration.

(a) - (c) (No change.)

(d) All statements and qualifications provided by the applicant or on the behalf of the applicant are subject to verification by the executive director.

(e) All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(f) [{e}] Misrepresentation or falsification of any information may be grounds for denial [rejection] of an application and [or] for enforcement action.

(g) [{f}] All applications must be completed in full. All deficiencies must be corrected within 60 days [two months] of notification, or the application shall be considered void [invalid].

(h) [{g}] After verification that the requirements for registration have been met, the executive director shall issue the registration no later than 45 days after the effective date of the registration. The registration shall be for the term specified in §30.30 of this title (relating to Terms and Fees for Licenses and Registrations). The effective date of the registration shall be the date the executive director issues the registration.

§30.18. Applications for an Initial License.

(a) - (d) (No change.)

(e) All statements and qualifications provided by each applicant or on the behalf of the applicant are subject to verification by the executive director.

(f) All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(g) [{f}] Misrepresentation or falsification of any information may be grounds for denial [rejection] of an application and [or] for enforcement action.

(h) [{g}] All applications must be completed in full. All deficiencies must be corrected within 120 days [four months] of notification, or the application shall be considered void [invalid].

(i) [{h}] An applicant must furnish evidence of any training credit, proof of education, or work experience when requested.

(j) [{i}] After verification that the requirements for license have been met, the executive director shall issue [mail] the license no later than 45 days after the effective date of the license. The license shall be for the term specified in §30.30 of this title. The effective date of the license shall be the date the executive director issues the license.

§30.20. Examinations.

(a) - (b) (No change.)

(c) Any individual with an approved application who fails an examination may repeat the examination after waiting 60 days from the most recent examination taken by the individual for that particular exam.

(d) An individual shall not take the same examination more than four times within 365 days of the initial application submittal.

(e) After 365 days or taking the same examinations four times, whichever occurs first, the application becomes void and a new application with a new fee must be submitted before the applicant may take the examination again, in accordance with subsection (d) of this section.

(f) Any scores for repeat examinations taken prior to waiting 60 days from the most recent examination date for that particular exam or taken after an application has expired or becomes void will not be applied to the issuance of the license.

(g) Repeat examinations taken prior to waiting 60 days from the most recent examination date for that particular exam or after an application has expired or becomes void will count towards the number of exams allowed within the 365-day period.

(h) Individuals using a computer-based testing method may be excluded from waiting 60 days to retest after failing an exam.

(i) Any individual who fails an examination may repeat the examination after waiting 60 days. The examination may not be repeated more than three times within 12 months of the initial application approval. After one year or four examinations, whichever occurs first, a new application with a new fee must be submitted before the applicant may take the examination again.

(j) [{i}] Any qualified applicant with a physical, mental, or developmental disability may request reasonable accommodations to take an examination.

(k) [{j}] Examinations shall be given at places and times approved by the executive director.

(l) [{k}] The executive director shall provide an analysis of an examination when requested in writing by the applicant. The executive director shall ensure that an examination analysis does not compromise the fair and impartial administration of future examinations.

(m) An individual who wishes to observe a religious holy day on which the individual's religious beliefs prevent the individual from taking an examination scheduled by the agency on that religious holy day shall be allowed to take the examination on an alternate date.

§30.24. License and Registration Applications for Renewal.

(a) A license or registration may not be renewed if [unless] it has been:

(1) expired for more than 30 days;

(2) revoked;

(3) replaced by a higher class of license.

(b) (No change.)

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) [(e)] The continuing education used to renew a license must be successfully completed [earned] after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period [remaining continuing education hours] shall not be carried over to the next renewal period.

(e) [(d)] The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration [license expires], and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(f) [(e)] An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(g) Persons failing to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state may renew their license within 180 days of returning from active duty by submitting the following:

(1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

(3) the applicable license renewal fee.

(h) For good cause the executive director may extend the 180-day period for individuals serving on active duty in the United States armed forces outside this state seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(i) Completion of the required continuing education will be waived for the renewal cycle while the licensee was on active duty service in the United States armed forces outside this state.

(j) These procedures apply only to individuals on active duty service in the United States armed forces outside this state and not to military contractors.

[(f) The executive director may require specific training courses for renewal of a license on a case-by-case basis.]

(k) [(g)] All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(l) [(h)] All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(m) [(i)] Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(n) [(j)] The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration and send it to the applicant within 45 days after the date the executive director receives the renewal application.

(o) [(k)] The license or registration shall be valid for the term specified.

(p) [(l)] If the application [is denied because the applicant] does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies within 45 days after the date the executive director receives the renewal application.

(q) All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(r) [(m)] A person whose license or registration has expired shall [may] not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

§30.28. Approval of Training.

(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.

(b) Training credit may be approved by the executive director for successful completion of:

(1) training courses, events, and conferences;

(2) computer or Web-based training, correspondence courses, or similar distance learning training;

(3) training at association meetings, only when the meetings include training sessions containing subject matter related to the particular license; or

(4) other professional activities, such as publication of articles or teaching classroom training courses.

(c) The executive director shall determine the number of hours of training credit that will be granted for approved training. The executive director may:

(1) request field testing data from training providers to substantiate the hours requested; and

(2) use subject matter expert qualifications to determine the training credit awarded.

(d) Applications for course approval or approval of new training material must:

(1) be made on a standard form provided by the executive director;

(2) be submitted to the executive director with the applicable fee found in the chart contained in subsection (x)(6) of this section;

(3) be accompanied by supplemental information and materials according to the specific requirements for each type of training as approved by the executive director;

(4) contain supplemental materials and information edited by qualified subject matter experts; and

(5) include samples of certificates of completion including information as required by the executive director.

(e) Once a training course is approved, a training provider may offer the course as approved without notification to the executive director.

(f) Training courses are considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or presentation of the course are necessary.

(g) If a training provider changes the delivery method of a course, the course must be resubmitted for review and approval by the executive director.

(h) The executive director may require training providers to update a course or manual to ensure that its content reflects current technology and practices.

(i) Training providers shall:

(1) keep manuals and course content updated to reflect rule changes;

(2) resubmit for approval training material that makes any reference to rules within 180 days of any new rule adoption that pertains to that training;

(3) resubmit materials with substantial changes for review and reapproval by the executive director accompanied by a summary, list, or other indication of significant changes;

(4) be liable for the contents and delivery of the training;

(5) retain accurate training records for a minimum of five years;

(6) maintain records of training approval throughout the entire period the training provider actively provides training;

(7) notify students of all fees associated with completing and obtaining credit for training before and during the training;

(8) accurately present to students approved training credit along with any other criteria for obtaining the credit;

(9) ensure that classroom instructors are qualified and provide the agency with instructor qualifications when requested;

(10) ensure that licensees do not repeat the same distance learning course within the current renewal period unless approved to do so by the executive director prior to the training;

(11) allow agency staff or their agents access to training events in order to audit training content, manner of presentation, and instructor effectiveness and qualifications;

(12) verify participation and report the participant's training credit hours not to exceed approved training credit hours; and

(13) provide to the executive director electronic rosters of training events within 14 days after a participant's successful completion of the training event per procedures provided and approved by the executive director.

(j) Training events shall not be advertised as approved until notice of approval is received from the executive director.

(k) The executive director may recall training for reevaluation which may result in rescinding the previous approval of the training.

(l) Training courses and training material used to meet the requirements for obtaining or renewing a license must:

(1) be approved by the executive director before the training begins;

(2) provide the knowledge or skills necessary to perform one or more of the occupation's critical job tasks as determined by a job analysis or training needs assessment;

(3) not promote or endorse the products, product lines, or services of a single manufacturer, distributor, or service provider;

(4) provide the means to accomplish the learning objectives identified for the training;

(5) include, but are not limited to, visual aids, graphics, and interactivity to enhance learning and attain learning objectives;

(6) include regular monitoring of participant comprehension throughout the training with feedback from the training provider, instructor, or subject matter expert;

(7) be monitored for successful participant completion and completed training credit reported to the agency by the approved training provider; and

(8) utilize, at a minimum, qualified subject matter experts and instructional design experts or effective qualified classroom instructors to develop training materials for approval. Additionally, development for technology-based training must also utilize experts in technology.

(m) Classroom training, training providers, and classroom instructors must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (n), (o), (p), (q), and (r).

(1) Classroom training must not be held in a place of business of a product manufacturer, distributor, or service provider. Water, wastewater, and solid waste facilities are exempted and applicable approved training may be held at these facilities.

(2) The agency may approve high school vocational education courses if their content follows the guidance of the respective licensing program area and meets training requirements in this chapter.

(n) Conference training, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (o), (p), (q), and (r).

(1) Training at conferences may be submitted for approval by:

(A) governmental entities or their designated agents;

(B) industry-related associations; or

(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education.

(2) The executive director may award training credits for attendance at in-state and out-of-state conferences.

(3) To receive training credits for in-state and out-of-state conferences, the training must be approved by the executive director prior to the conference.

(4) Training at conferences will be approved for a specified number of training credits.

(5) To be approved, a conference should contain a minimum of three hours of approvable training.

(6) If the executive director determines the conference training is more appropriately presented as classroom training, the

training provider may be required to meet requirements as detailed in subsection (m) of this section.

(7) The conference is considered approved until content, presenters, or duration changes.

(o) Training at association meetings, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (p), (q), and (r).

(1) Training sessions conducted at regular and special meetings of industry-related associations whose members hold licenses that are issued by the commission may be approved per event or on an annual basis.

(2) Associations may apply annually for approval of training events. If not approved annually, training at individual meetings may be approved, so long as approval is requested in writing at least 30 days before the meeting as detailed in subsection (d) of this section.

(3) Training at association meetings must be presented by qualified subject matter experts.

(4) Training at association meetings over two hours must meet requirements in subsection (n) of this section.

(p) Distance learning training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), and (o) of this section.

(1) Distance learning training may only be submitted for approval by:

(A) governmental entities or their designated agents;

(B) industry-related associations;

(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education; or

(D) other entities, as determined by the executive director, who can demonstrate comparable or exceptional subject matter expertise, knowledge of and experience with educational principles and effective instructional design.

(2) Applications for distance learning training approval must be accompanied by the supplemental materials as approved by the executive director for either correspondence or technology-based training.

(3) Distance learning training:

(A) may not be substituted for actual hands-on training, if hands-on training is necessary to teach required manual skills;

(B) must provide students timely access to qualified subject matter experts;

(C) shall not be repeated by a licensee in the current renewal period if the course uses the same performance-based assessment content or format; and

(D) must maintain procedures to protect student identity if using the Internet.

(q) Correspondence training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (r) of this section. Correspondence training is distance learning that can either be paper-based conducted through a postal system, electronic-based conducted through a Web site, or a blend of these delivery systems and shall:

(1) make available a text or training manual to students for training with any delivery system; and

(2) provide acceptable procedures for participant identity verification.

(r) Technology-based training must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (q) of this section, and shall:

(1) provide course access to the agency if provided via the Internet;

(2) provide tracking of student time and progress required for course completion;

(3) provide acceptable procedures for participant identity verification; and

(4) provide access to timely technical support and qualified subject matter experts.

(s) Printed course information should be presented in an original manner and must be relevant to the necessary tasks and knowledge for the occupational licensees.

(t) Public information copied from Web sites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.

(u) If course materials submitted to the executive director for approval are copyrighted materials, the training provider is responsible for obtaining proper approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references.

(v) Under the Public Information Act, copyrighted training materials submitted to the executive director may be inspected by the public. The agency will not provide copies of copyrighted materials to the public unless required to do so as a result of legal action.

(w) The executive director may:

(1) return without approval, training courses and training material determined to contain extensive errors or not meeting the requirements of this section;

(2) monitor, recall, reevaluate, and/or rescind approval of topics or training materials provided at approved training; and

(3) rescind, suspend, or deny training approval for good cause, which includes:

(A) the training does not conform to current technical standards or rules;

(B) the training does not conform to the materials as approved;

(C) the subject matter is not related to critical job tasks performed by licensees;

(D) an instructor is not qualified to teach the subject matter;

(E) an instructor is ineffective in the delivery of the subject matter;

(F) the training promotes or endorses products, product lines, or services from one manufacturer, distributor, or service provider;

(G) participation records are not submitted as required by subsection (i)(13) of this section;

(H) records, rosters, or application materials have been falsified;

(I) noncompliance with a training recall;

(J) the training provider is not active or the training has not been conducted for three or more years; or

(K) the training environment is not conducive to learning.

(x) Fees for training approval will be assessed based on requested training credit hours available for the event with the exception of annual review and approval of association meetings. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant.

(1) Fees should be submitted with the application and supplemental materials as detailed in subsection (x)(6) of this section.

(2) Fees are nonrefundable whether the training event is approved or not approved.

(3) The review and approval of training may require both an administrative review for application package completeness and a technical review for compliance with the requirements and standards detailed in this section. The fee will include both of these reviews.

(4) The application will become void and the fee forfeited if an applicant does not respond within 60 days of the notification provided by the executive director of any deficiencies in the application.

(5) Any training material submitted for approval after January 1, 2008, requires submittal of the applicable fees listed in subsection (x)(6) of this section.

(6) The greater of the following fees should be submitted with each application for approval of training for occupational licensing depending on the type of training as outlined in the following table. Figure: 30 TAC §30.28(x)(6)

§30.30. Terms and Fees for Licenses and Registrations.

(a) All licenses and registrations are valid for three [two] years from the date of issuance. [; with the exception of the following licenses, which will be valid for three years:]

{(1) backflow prevention assembly testers;}

{(2) customer service inspectors;}

{(3) Class A, B, C, III, and II wastewater operators;}

{(4) Class A, B, and C public water system operators;}

{(5) Class III, II, and I water treatment specialists; or}

{(6) municipal solid waste facility supervisors.}

(b) The following licenses and registrations shall be transitioned from a two-year [one-year] cycle to a three-year [two-year] cycle:

(1) landscape irrigator and installer, according to Subchapter D of this chapter (relating to Landscape Irrigators and Installers); [and]

(2) leaking petroleum storage tank corrective actions project manager and specialist according to Subchapter E of this chapter (relating to Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists);

(3) [(2)] underground storage tank on-site supervisor and contractor, according to Subchapter I of this chapter (relating to Underground Storage Tank On-site Supervisor Licensing and Contractor

Registration [Underground Storage Tank Contractors and On-Site Supervisor Licensing and Contractor Registration]); [;]

(4) on-site sewage facilities installers, apprentices, designated representatives, maintenance providers, and site evaluators, according to Subchapter G of this chapter (relating to On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators);

(5) Class D wastewater treatment facility operators, according to Subchapter J of this chapter (relating to Wastewater Operators and Operations Companies);

(6) Class I wastewater collection system operators, according to Subchapter J of this chapter;

(7) wastewater operations companies according to Subchapter J of this chapter;

(8) Class D public water system operators, according to Subchapter K of this chapter (relating to Public Water System Operators and Operation Companies); and

(9) public water system operations companies according to Subchapter K of this chapter.

(c) The executive director may adopt a system under which licenses or registrations expire on various dates.

(d) [(e)] The license fee is \$111 [\$70 for a two-year license and \$105] for a three-year license. [The license fee for wastewater operators, public water system operators, and customer service inspectors shall be based on \$20 per year of the licensing term until January 1, 2003.] The total amount shall be paid with each initial and renewal application and is nonrefundable.

(e) [(d)] Registration fees are established in the applicable subchapters of this chapter.

(f) [(e)] The executive director may charge a \$20 fee to process a duplicate certificate or pocket card. [A fee of \$20 shall be charged for each copy of the license or registration, or to replace a lost or damaged license or registration.]

(g) [(f)] A convenience fee may be set by the executive director or service provider for alternative fee payment methods. A person using an alternative payment method is responsible for paying the convenience fee.

(h) [(g)] An examination or reexamination fee may be charged if the executive director designates an entity to administer the examinations.

§30.33. License or Registration Denial, Warning, Suspension, or Revocation.

(a) The executive director may deny an initial or renewal application for the following reasons. [;]

(1) Insufficiency [insufficiency]. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion for reconsideration under §50.39 of this title (relating to Motion for Reconsideration). The executive director may determine an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

{(B) being in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGSLC) (the executive director shall proceed as described in Texas Education Code, Chapter 57)

if identified by TGS LC and the application is for a renewal license or registration; or]

(B) [(C)] if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter. [;]

(2) Cause [ause]. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) (No change.)

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(G) is in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGS LC) (the executive director shall proceed as described in Texas Education Code, Chapter 57) if identified by TGS LC and the application is for a renewal license or registration.

[(B) has a poor compliance history as a licensee in another state; or]

[(C) has a history in this or another agency program of violations of statutes or rules adopted under those statutes;]

[(D) makes an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the applicant;]

[(E) fails to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute; or]

[(F) is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute;]

(b) (No change.)

(c) After notice and [opportunity for a] hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds in Texas Water Code, §7.303(b). [; or suspend or revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m). A license may also be suspended if a person is identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).]

(d) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(e) The commission may also suspend if a licensed individual identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a

license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(f) [(d)] After notice and hearing a [A] license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked after notice and hearing [automatically] upon a second suspension.

(g) [(e)] The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(h) [(f)] The following procedures for renewal apply to persons that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, a person may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters.

(2) After the suspension period has ended, the license or registration shall be automatically reinstated unless the person failed to renew the license or registration during the suspension period.

(i) [(g)] Persons that have had their license or registration revoked shall not have their license or registration [automatically] reinstated after the revocation period. After the revocation period has ended, a person may apply for a new license or registration according to this chapter.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701226

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0346



30 TAC §30.28

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

The repeal is proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also proposed under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing; TWC, §26.346, concerning Registration Requirements; TWC, §26.452, concerning Underground Storage Tank Contractor; TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing; and TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. This repeal is also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of

Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also proposed under Texas Occupations Code (TOC), §1903.251, concerning License Required. This repeal is also proposed under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies; THSC, §341.102, concerning Water Treatment Specialist Certification Program; THSC, §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction; Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. This repeal is also proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, this repeal is proposed under THSC, §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

This proposed repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, 26.346, 26.452, 26.456, 26.3573, 37.001 - 37.015; TOC, §1903.251; and THSC, §§341.033, 341.034, 341.102, 361.002, 361.011, 361.022, 361.024, 361.027, 363.021, 363.022, 366.011, 366.012, and 366.071.

§30.28. *Approval of Training.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701227

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER B. BACKFLOW PREVENTION ASSEMBLY TESTERS

30 TAC §30.51, §30.60

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, Chapter 37 §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also proposed under Texas

Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

§30.51. *Purpose and Applicability.*

(a) - (b) (No change.)

[(e) All previously issued backflow prevention assembly tester accreditations shall expire December 1, 2002. To obtain a license, an individual holding an accreditation must submit a new application with the appropriate fee. If an individual with an accreditation does not obtain a license by December 1, 2002, the individual must meet the qualifications of this subchapter for initial licenses. Until December 1, 2002, individuals with accreditations may test and repair backflow prevention assemblies.]

§30.60. *Qualifications for Initial License.*

To obtain a license, an individual must have:

(1) - (3) (No change.)

(4) completed an approved 40-hour backflow prevention assembly testing training course; and

(5) worked at least two years in an approved area[.] which includes, but is not limited to:

[(A) Approved areas are:]

(A) [(i)] operating or maintaining a public drinking water system;

(B) [(ii)] installing or repairing residential, commercial, or industrial drinking water treatment equipment;

(C) [(iii)] installing or repairing lawn irrigation systems;

(D) [(iv)] performing activities requiring a master or journeyman plumbing license;

(E) [(v)] installing or servicing [testing and repairing backflow prevention assemblies on] fire suppression sprinkler systems and lines; [or]

(F) operating or maintaining a domestic wastewater treatment facility;

(G) performing health inspections that requires a registered sanitarian; or

(H) [(vi)] performing other duties approved by the executive director.

(6) [(B)] An individual may substitute one year of the required experience with:

(A) [(i)] one year of college credit (32 semester hours); or

(B) [(ii)] 20 hours of approved training in addition to the required 40-hour backflow prevention assembly testing training course.



This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701228
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: May 13, 2007
For further information, please call: (512) 239-0348

SUBCHAPTER C. CUSTOMER SERVICE INSPECTORS

30 TAC §§30.81, 30.90, 30.92

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, Chapter 37 §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also proposed under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001-37.015; and THSC, §341.033 and §341.034.

§30.81. *Purpose and Applicability.*

(a) - (c) (No change.)

(d) A licensed customer service inspector shall ~~may~~ not perform plumbing inspections required under Plumbing Licensing Law 15(a) (Texas Civil Statutes, Volume 17-1/2, Article 6243-101).

§30.90. *Qualifications for Initial License.*

(a) To obtain a license, an individual must have:

(1) met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) received a high school diploma or equivalent certificate;

(3) completed an approved customer service inspector training course;

(4) worked at least two years in an approved area which includes, but is not limited to:

(A) operation or maintenance of a public drinking water treatment or distribution system;

(B) performing activities requiring a master or journeyman plumbing license;

(C) conducting building or construction inspections; or

(D) performing duties related to this profession approved by the executive director.

~~[(4) worked at least two years in an approved area. Approved areas include, but are not limited to, operation or maintenance~~

~~of a public drinking water treatment or distribution system, or building or construction inspections;]~~

(b) ~~[(5)]~~ One ~~[one]~~ year of college (32 semester hours) or an additional 20 hours of training credits may be substituted for one year of the experience requirement.

§30.92. *Qualifications for License Renewal.*

To renew a license, an individual must have:

(1) (No change.)

(2) completed 16 ~~[24]~~ hours of approved continuing education.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701229
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: May 13, 2007
For further information, please call: (512) 239-0348

SUBCHAPTER D. LANDSCAPE IRRIGATORS AND INSTALLERS

30 TAC §§30.111, 30.120, 30.122, 30.129

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments are finally proposed under the Texas Occupations Code (TOC), §1903.251, concerning License Required.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and TOC, §1903.251.

§30.111. *Purpose and Applicability.*

(a) - (b) (No change.)

~~[(c) Licenses and certificates of registrations issued before January 1, 2002, remain in effect until they expire or are revoked by the commission.]~~

§30.120. *Qualifications for Initial License.*

(a) To obtain an installer license, an individual must have:

(1) (No change.)

(2) passed the applicable ~~[an approved]~~ examination.

(b) To obtain an irrigator license, an individual must have:

(1) (No change.)

(2) completed and passed the basic irrigator ~~[an approved]~~ training course; and

(3) passed all sections of the applicable examination.

§30.122. Qualifications for License Renewal.

(a) To renew an installer license, ~~[issued after January 1, 2002,]~~ an individual must meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(b) To renew an irrigator license, ~~[issued after January 1, 2002,]~~ an individual must:

(1) (No change.)

(2) complete 24 ~~[46]~~ hours of approved training credits ~~[continuing education]~~.

§30.129. Exemptions.

(a) The licensing ~~[license]~~ requirements of this chapter do not apply to a person who:

(1) is ~~[an individual]~~ licensed by the Texas State Board of Plumbing Examiners and is working within the scope provided by the plumbing laws;

(2) is ~~[an individual]~~ registered or licensed as a professional engineer or architect or landscape architect if the work is related ~~[incidental]~~ to the pursuit of the profession;

(3) is under the direct supervision of a licensed irrigator and assists in the installation, maintenance, alteration, repair, or service of an irrigation system; or

(4) is an owner of a business that employs a licensed irrigator to supervise the business' sale, design, consultation, installation, maintenance, alteration, repair, and service of irrigation systems. For the purpose of this subchapter, employs means steadily, uniformly, or habitually working in an employer-employee relationship with the intent to earn a livelihood, as opposed to working casually or occasionally.

(b) The licensing requirements of this chapter do not apply to:

(1) ~~[(3)]~~ irrigation or yard sprinkler work that is performed ~~[done]~~ by a property owner in a building or on premises owned or occupied by the owner as the owner's home;

(2) ~~[(4)]~~ irrigation or yard sprinkler repair work, other than extension of an existing irrigation or yard sprinkler system or installation of a replacement system~~[-]~~ that is: ~~[done by a maintenance person incidental to and on premises owned by the business in which the individual is regularly employed or engaged and who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;]~~

(A) performed by a maintenance person who does not act as an irrigator or engage in yard sprinkler construction or maintenance for the public; and

(B) incidental to and on premises owned by the business in which the person is regularly employed or engaged;

(3) ~~[(5)]~~ irrigation or yard sprinkler work that is performed: ~~[done on the premises or equipment of a railroad by a regular employee of the railroad who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;]~~

(A) by a regular employee of a railroad who does not act as an irrigator or engage in yard sprinkler construction or maintenance for the public; and

(B) on the premises or equipment of the railroad;

(4) ~~[(6)]~~ irrigation and yard sprinkler work that is performed on public property ~~[done]~~ by a person who is regularly employed by a county, city, town, special district, or political subdivision of the state ~~[on public property];~~

(5) ~~[(7)]~~ irrigation or yard sprinkler work that is performed ~~[done]~~ by a person using a garden hose, hose sprinkler, hose-end product, including soaker hose, or agricultural irrigation system;

(6) ~~[(8)]~~ an activity that includes ~~[activities involving]~~ a commercial agricultural irrigation system;

(7) ~~[(9)]~~ irrigation or yard sprinkler work that is performed ~~[done]~~ by an agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, or grader or cultivator of land on land owned by the individual performing the work;

(8) ~~[(10)]~~ irrigation or yard sprinkler work that is performed ~~[done]~~ by a member of a property owners' association as defined by Property Code, §202.001, on real property owned by the association or in common by the members of the association if the irrigation or yard sprinkler system water real property that is less than 1/2 acre in size and is used for aesthetic or recreational purposes. ~~[-]~~

~~[(11)]~~ a person who assists in the installation, maintenance, alteration, repair, or service of an irrigation system under the direct supervision of a licensed irrigator; or]

~~[(12)]~~ an owner of a business that employs a licensed irrigator to supervise the business's sale, design, consultation, installation, maintenance, alteration, repair, and service of irrigation systems. For the purpose of this subchapter, "employs" means steadily, uniformly or habitually working in an employer-employee relationship with a view of earning a livelihood, as opposed to working casually or occasionally.]

(c) ~~[(b)]~~ A person who is exempt from the license requirements of this subchapter shall comply with the standards established by Chapter 344 of this title (relating to Landscape Irrigation ~~[Landscape Irrigations]~~). The term irrigation system does not include a system used on or by an agricultural operation as defined in Texas Agriculture Code, §251.002.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701230

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



30 TAC §30.125

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

This repeal is proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This proposed repeal is also proposed under Texas Occupations Code (TOC), §1903.251, concerning License Required.

This proposed repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and TOC, §1903.251.

§30.125. Renewal of Certificates of Registrations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701231

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER E. LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT MANAGERS AND SPECIALISTS

30 TAC §§30.171, 30.180, 30.185, 30.190, 30.192

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. Finally, these amendments are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 26.3573, and 37.001 - 37.015.

§30.171. Purpose and Applicability.

- (a) - (c) (No change.)

[(d) Registrations issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.]

§30.180. Qualifications for Initial License.

To obtain a license as a corrective action project manager, an individual must have:

- (1) (No change.)

- (2) provided documentation of quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three individuals, that are not related by blood or marriage, for whom the applicant performed corrective action services, within the previous [preeding] 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include a description of the type or types of corrective action services performed by the applicant and the physical address where the services occurred. Corrective action services are not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under Resource Conservation and Recovery Act [RCRA]; Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA]; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26; or

- (B) (No change.)

- (3) (No change.)

- (4) documented education and experience:

- (A) (No change.)

(B) an individual must have received a bachelor's degree in the physical, natural, biological, or environmental sciences, engineering, applied geography, or a subject directly relevant to the environmental field, as approved by the executive director; and documented a minimum of two years' experience in corrective action services. [; and]

[(5) submitted a sworn statement from the applicant attesting to the accuracy of the information provided on the application.]

§30.185. Qualifications for License Renewal.

- (a) To renew a license, an individual must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and

(2) complete 32 [46] hours of approved continuing education. [;]

(b) [(3)] With [with] the exception of professional engineers and professional geoscientist, an application for renewal of a corrective action project manager license is complete when the executive director has received an application for renewal on a form provided by the executive director, completed in a manner acceptable to the executive director, and is accompanied with the required training certificate indicating 32 hours of continuing education; and payment of applicable fees specified in §30.30 of this title (relating to Terms and Fees for Licenses and Registrations).

§30.190. Qualifications for Initial Registration.

To obtain a corrective action specialist registration, a person must have:

- (1) (No change.)

- (2) provided:

(A) proof of a comprehensive general liability insurance policy designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) [\$1 million] and of a type approved by the executive director; and

- (B) (No change.)

~~[(3) submitted a sworn statement from the applicant attesting to the accuracy of the information provided on the application;]~~

~~(3)~~ ~~[(4)]~~ submitted an application fee of ~~\$232~~ ~~[\$150]~~; and

~~(4)~~ ~~[(5)]~~ documented quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three persons, not related by blood or marriage, for whom the applicant performed corrective action services, within the previous ~~[preceeding]~~ 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include description of the type of corrective action services that were performed by the applicant and the physical address where the activity occurred. Applicable corrective action experience is not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under Resource Conservation and Recovery Act ~~[RCRA]~~; Comprehensive Environmental Response, Compensation, and Liability Act ~~[CERCLA]~~; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26. The executive director shall evaluate the explanation and case histories on a case-by-case basis; or

(B) a written explanation of why the applicant did not provide the sworn statements required by subparagraph (A) of this paragraph are not available. An applicant's experience, under the supervision of a licensed corrective action project manager, may be sufficient if the executive director determines that the individual had substantial involvement in the decision-making process during the project. The written explanation shall include a detailed description of three case histories of corrective action services performed by the individual during the previous 24 months. The executive director shall evaluate the explanation and case histories on a case-by-case basis.

§30.192. Qualifications for Registration Renewal.

To renew a registration, a person must:

(1) meet the requirements in Subchapter A of this chapter ~~[title]~~ (relating to Administration of Occupational Licenses and Registrations); ~~and~~

(2) complete an application for registration renewal for a corrective action specialist approved by the executive director, certifying that the company has continued to meet the financial requirements of §30.190 of this title (relating to Qualifications for Initial Registration ~~[for Corrective Action Specialist]~~); and ~~[pay a registration renewal fee of \$150.]~~

~~(3)~~ pay a registration renewal fee of \$232.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701232

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER F. MUNICIPAL SOLID WASTE FACILITY SUPERVISORS

30 TAC §§30.201, 30.210, 30.212 - 30.214

STATUTORY AUTHORITY

These amendments and new sections are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments and new sections are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new sections are also proposed under Texas Health and Safety Code (THSC), §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction: Municipal Solid Waste; THSC, §361.022, concerning Public Policy concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. These amendments and new sections are also proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

These proposed amendments and new sections implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.021, and 363.022.

§30.201. Purpose and Applicability.

(a) The purpose of this section is to establish qualifications for issuing and renewing licenses to an individual who supervises or manages the operation of municipal solid waste facilities~~;~~ ~~or the collection or transportation of municipal solid waste~~.

(b) At least one individual who supervises or manages the operation of a municipal solid waste facility ~~[or the collection or transportation of municipal solid waste]~~ must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(c) Provisional or solid waste facility supervisor in training letters that were issued before the effective date of these rules shall remain in effect until their expiration date. No applications for provisional or solid waste facility supervisor in training letters will be accepted after September 1, 2008.

(d) Current Class D supervisor licenses shall remain in effect until their expiration date. No applications for Class D supervisor will be accepted after September 1, 2008.

~~[(e) The effective date for each facility to have a licensed supervisor is January 1, 2004. Letters of competency issued before the effective date of these rules shall remain in effect until their expiration date. At the time of renewal, letters of competency shall be replaced with a license.]~~

§30.210. Qualifications for Initial License.

To obtain a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license:

Figure: 30 TAC §30.210

§30.212. *Qualifications for [Før] License Renewal.*

To renew a license, an individual must have:

- (1) (No change.)
- (2) completed the following hours of continuing education:
 - (A) - (B) (No change.)
 - (C) Class C - 12 hours. [;]
 - ~~{(D) Class D - 12 hours.}~~

§30.213. *Classification of Municipal Solid Waste Facilities and Level of License Required.*

(a) Each classification of a municipal solid waste (MSW) facility shall employ at least one licensed individual who supervises or manages the operations of a MSW facility. The level of license required for the different classifications of facilities is as follows:

Figure: 30 TAC §30.213(a)

(b) The level of license required for the different classifications of facilities described in subsection (a) of this section are applicable unless the facility's permit specifies that the facility be supervised by a level of supervisor different from that required in subsection (a) of this section. The facility's permit supersedes the requirement in subsection (a) of this section.

(c) All MSW facilities that are required to have a licensed supervisor may operate that facility with its current licensed supervisors until August 31, 2008. Beginning September 1, 2008, all MSW facilities required to have a licensed supervisor who holds a certain license level must meet the requirement of this subchapter.

(d) MSW facilities that have a supervisor who holds a provisional or solid waste facility supervisor in training letter may continue to operate with that letter until the provisional or solid waste facility supervisor in training letter expires. The facility shall then ensure that at least one individual who supervises or manages the operation of a MSW facility meets the requirements of this subchapter.

§30.214. *Exemptions.*

The following municipal solid waste (MSW) facilities do not require a licensed supervisor:

- (1) Type IX beneficial landfill gas recovery facilities;
- (2) animal crematories, dual chamber incinerators, and air curtain incinerators operating in accordance with an MSW permit by rule; and
- (3) MSW facilities exempt from permitting or registration, unless otherwise described in §30.210 of this title (relating to Qualifications for Initial License).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701233

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



30 TAC §30.210

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

This repeal is proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also proposed under Texas Health and Safety Code (THSC), §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction: Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. This repeal is also proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

This proposed repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.021, and 363.022.

§30.210. *Qualifications for Initial License.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701234

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER G. ON-SITE SEWAGE
FACILITIES INSTALLERS, APPRENTICES,
DESIGNATED REPRESENTATIVES,
MAINTENANCE PROVIDERS, AND SITE
EVALUATORS

30 TAC §§30.231, 30.240, 30.242, 30.244, 30.245, 30.247

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations;

Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, these amendments are proposed under Texas Health and Safety Code (THSC), §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

§30.231. Purpose and Applicability.

(a) - (c) (No change.)

~~{(d) Licenses, registrations, and certificates of registrations issued prior to January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.}~~

§30.240. Qualifications for Initial License.

(a) (No change.)

(b) To obtain an Installer II license, an individual must have:

(1) (No change.)

(2) met one of the following requirements:

(A) (No change.)

~~{(B) held an Installer I license for six months and possessed an apprentice registration for at least one year before June 13, 2001.}~~

(B) ~~{(C)}~~ held an apprentice registration for at least two years; or

(C) ~~{(D)}~~ previously possessed an Installer II license;

(3) - (4) (No change.)

(5) met the experience requirements. Applicants for an Installer II license must submit statements attesting to the applicant's ~~individual's~~ work experience. Such statements shall include a description of the type of on-site sewage facility (OSSF) work that was performed by the applicant ~~individual~~ and the physical addresses where the activity occurred. The experience shall be actual work accomplished under the license or registration. The number of systems will not substitute for the time required. Experience requirements are:

(A) to document ~~verified~~ experience as an Installer I, ~~the applicant~~ The individual shall submit either:

(i) sworn statements from at least three individuals for whom the applicant performed construction services, statements cannot be provided by individuals related by blood or marriage to the applicant or applicant's spouse~~;~~ such as a child, grandchild, parent, sister, brother, or grandparent~~;~~

(ii) a sworn statement from a designated representative who has approved a minimum of three installations performed by the applicant ~~individual~~; or

(iii) other documentation of the applicant's ~~individual's~~ work experience, approved by the executive director;

(B) to document ~~verified~~ experience as an apprentice, ~~the applicant~~ An individual shall submit either:

(i) a sworn statement from the installer for whom the applicant ~~individual~~ performed construction services;

(ii) a sworn statement from a designated representative who witnessed the applicant ~~individual~~ working on at least six OSSF installations; or

(iii) (No change.)

(c) (No change.)

(d) To obtain a site evaluator license, an individual must have:

(1) met the requirements of Subchapter A of this chapter ~~[and §30.246 of this title (relating to Application for Site Evaluator)];~~ and

(2) (No change.)

§30.242. Qualifications for License Renewal.

(a) To renew an Installer I, Installer II, designated representative, or site evaluator license, an individual must have:

(1) (No change.)

(2) completed a minimum of 24 ~~[46]~~ hours of approved training credits ~~[continuing education]~~. ~~[For an individual with a current site evaluator license that expires before August 1, 2004, the individual must have completed a minimum of eight hours of approved continuing education.]~~

(b) (No change.)

§30.244. Exemptions.

(a) - (b) (No change.)

(c) A professional engineer may perform site evaluations without obtaining a site evaluator license. However, a professional engineer may obtain a site evaluator license by complying with the requirements in this subchapter.

§30.245. Registration of Apprentices.

(a) General. An individual who enters into an apprenticeship ~~[begins an apprentice program]~~ under the supervision of a licensed on-site sewage facility (OSSF) installer shall be registered with the executive director.

(b) Application. Applications for registrations shall be made on a standard form provided by the executive director. The completed application and an \$81 ~~[a \$50]~~ fee must be submitted to the executive director by a licensed OSSF installer for each individual ~~that is [being]~~ registered as an apprentice under that installer's supervision. ~~[The application shall be on a form approved by the executive director.]~~

(c) Notification. After verifying that the requirements for registration have been met, the executive director shall mail the registration certificate no later than 45 days after the effective date of the registration. ~~[Within 45 days after the date the executive director receives the application, the executive director will notify the supervising installer in writing of whether the individual has been registered as an apprentice. The apprentice's registration will be effective when the executive director receives the completed apprentice application and fee.]~~ An individual's application may be denied according to §30.33 of this title (relating to License or Registration Denial, Warning, Suspension, or Revocation).

(d) Expiration or termination. The apprentice registration will expire on the same expiration date as the supervising OSSF installer's license. Either the supervising OSSF installer or the apprentice may terminate the apprenticeship ~~[apprentice training program]~~ by providing written notice to the executive director. No reason for the termination is required. Upon receipt of written notification ~~[receipt of a letter]~~ requesting ~~[stating]~~ that the apprenticeship ~~be~~ ~~[apprentice training has been]~~ terminated, the executive director shall expire ~~[terminate]~~ the apprentice's registration under the supervising OSSF installer.

(e) An apprentice's registration may not be renewed if:

- (1) the supervising OSSF installer's license is not current;
- (2) the registration has been expired for more than 30 days;
- (3) the registration has been revoked; or
- (4) the registration has been replaced by a higher class of

license.

~~[(e) **Renewal.** It is the responsibility of the supervising installer to renew all of the registrations of his apprentices. If an apprentice registration is renewed late, the apprentice will be assigned a new registration date, but will not lose any experience gained under the previous registration.]~~

(f) An apprentice whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the registration expiration date of the current registration, must submit a new application with the appropriate fee. The apprentice will be assigned a new registration number and date, but will not lose any experience gained under the previous registration.

§30.247. *Registration of Maintenance Providers.*

(a) (No change.)

(b) To register as required by Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), a person must:

(1) (No change.)

(2) submit a completed application and a \$111 [\$70] fee to the executive director on a form approved by the executive director;

(3) - (4) (No change.)

(c) To renew a maintenance-provider registration, a maintenance provider must every three [two] years:

(1) (No change.)

(2) submit a completed renewal application and a \$111 [\$70] fee to the executive director on a form approved by the executive director.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701235

Robert Martinez

Director, Environmental Quality

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



30 TAC §30.246

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

This repeal is proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC,

§5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, this repeal is proposed under Texas Health and Safety Code (THSC), §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

This proposed repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

§30.246. *Application for Site Evaluator.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701236

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER H. WATER TREATMENT SPECIALISTS

30 TAC §§30.261, 30.270, 30.272, 30.274

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these are also proposed under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water supplies; and THSC, §341.102, concerning Water Treatment Specialist Certification Program.

The proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§341.033, 341.034, and 341.102.

§30.261. *Purpose and Applicability.*

(a) - (b) (No change.)

~~[(e) Licenses issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.]~~

§30.270. *Qualifications for Initial License.*

To obtain a license, an individual must have:

- (1) (No change.)
- (2) met the following requirements:

Figure: 30 TAC §30.270(2)

§30.272. *Qualifications for License Renewal.*

To renew a license, an individual must have:

- (1) (No change.)
- (2) completed 12 hours of approved training credits. [~~continuing education classes.~~]
 - ~~{(A) Class 1 - 12 hours of continuing education;}~~
 - ~~{(B) Class 2 - 12 hours of continuing education;}~~
 - ~~{(C) Class 3 - 12 hours of continuing education.}~~

§30.274. *Classification of Licenses.*

(a) Class 1 - Individuals who have been issued this license must work under the supervision of an individual holding a higher class license, a [the] local plumbing inspector, or a health official that has[having] jurisdiction where the work is performed. [~~Class 1 work is restricted to the following activities:~~]

- ~~{(1) exchange and regeneration of portable tanks;}~~
- ~~{(2) regeneration of nonportable tanks; or}~~
- ~~{(3) other tasks which may be assigned by the supervisor and for which direct supervision is provided.}~~

(b) Class 1 - Work is restricted to the following activities:

- (1) exchange and regeneration of portable tanks;
- (2) regeneration of nonportable tanks; or
- (3) other tasks which may be assigned by the supervisor and for which direct supervision is provided.

{(b) Class 2 - Individuals issued this license shall have demonstrated a practical working knowledge of the mechanics and servicing principles of water conditioners, and are deemed able to perform water treatment installations, exchanges, services, or repairs of equipment. Holders of this class license are considered to be aware of the public health requirements connected with their activities. Work on reverse osmosis and deionization equipment is specifically excluded unless performed under the supervision of an individual holding a higher class license.}

(c) Class 2 - Individuals who have been issued this license:

- (1) shall have demonstrated a practical working knowledge of the mechanics and servicing principles of water conditioners;
- (2) are deemed able to perform water treatment installations, exchanges, services, or repairs of equipment;
- (3) are considered to be aware of the public health requirements connected with their activities; and
- (4) are excluded from working on reverse osmosis and deionization equipment unless the work is performed under the supervision of an individual holding a higher class license.

(d) [(e)] Class 3 - Individuals who have been issued this license meet minimum standards of qualifications established for the installation, exchange, servicing, and repair of water treatment equipment and appliances, including reverse osmosis and deionization equipment.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701237

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER I. UNDERGROUND STORAGE TANK ON-SITE SUPERVISOR LICENSING AND CONTRACTOR REGISTRATION

30 TAC §§30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.319

STATUTORY AUTHORITY

These amendments and new section are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. Additionally, these amendments and new section are also proposed under TWC, §26.452, concerning Underground Storage Tank Contractor; and TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing. Finally, these amendments are proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

The proposed amendments and new section implement TWC, §§5.013, 5.102, 5.103, 26.452, 26.456, and 37.001 - 37.015.

§30.301. *Purpose and Applicability.*

(a) - (b) (No change.)

{(e) Licenses and certificates of registrations issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.}

§30.307. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (4) (No change.)

(5) Installation--The installation of USTs and ancillary equipment, including, but not limited to, the following activities:

(A) - (C) (No change.)

(D) addition or replacement of the following types of equipment at a new or existing facility:

(i) spill and overflow prevention equipment, as required in §334.51 of this title (relating to Spill and Overflow Prevention and Control); and

(ii) (No change.)

(E) - (H) (No change.)

(6) On-site supervisor--An individual who supervises the installation, repair, or removal of a UST in the State of Texas, and who meets the licensing requirements of this subchapter for one of the following licenses:

(A) Class A [~~License A~~] for an on-site supervisor who supervises the installation or repair of UST systems; or

(B) Class B [~~License B~~] for an on-site supervisor who supervises the removal of UST systems.

(C) Class A/B [~~License A and B~~] combination for an on-site supervisor who supervises the installation, repair, and removal of UST systems.

(7) - (11) (No change.)

§30.310. Qualifications for Initial License.

(a) An individual applying for an on-site supervisor license must apply for one of the following levels of licenses: ~~[either a License A, License B, or for a License A and B combination. To obtain an on-site supervisor license, an individual must:]~~

(1) Class A;

(2) Class B; or

(3) Class A/B combination.

(b) To obtain an on-site supervisor license, an individual must:

(1) have met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) be at least 18 years of age;

(3) document at least two years of active experience in installation, repair, or removal of underground storage tanks (USTs), underground utilities, or other engineering construction;

(4) submit sworn statements, on forms approved by the executive director, from at least four persons (three from clients not related by blood or marriage and one from a current or previous employer, or employer's representative) who have engaged the applicant or the applicant's employer within the previous 24 months to perform: UST installations, repairs, or removals; underground utility construction; or engineering construction. These statements shall attest to the applicant's character, knowledge of construction, and ability to supervise the construction activity. Such statements shall also include a description of the type of construction performed by the applicant;

(5) submit a sworn statement by the applicant as to the authenticity of the information provided on the application;

(6) prior to [submit, before] the examination, submit the appropriate certificates of completion for [one of] the following levels of licenses:

(A) Class A [~~for License A~~] - 28 hours of training and education courses in the installation and repair of USTs;

(B) Class B [~~for License B~~] - 12 hours of training and education courses in the removal of USTs; or

(C) Class A/B [~~for License A and B~~] combination - 40 hours of training and education courses in the installation, repair, and removal of USTs; and

(7) pass the appropriate licensing examination.

(c) ~~[(b)]~~ Individuals with a Class A [~~License A~~] or Class B [~~License B~~] may upgrade to a Class A/B [~~License A and B~~] combination

by submitting a new application with the required fee, completing the required initial training, and passing the examination.

§30.312. Qualifications for License Renewal.

To renew an on-site supervisor license [issued after January 1, 2002], an individual must have:

(1) - (2) (No change.)

§30.315. Qualifications for Initial Registration.

To obtain an underground storage tank (UST) contractor registration, a person must have:

(1) (No change.)

(2) provided:

(A) proof of commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) [~~\$1 million~~] and of a type approved by the executive director; and

(B) (No change.)

(3) (No change.)

(4) submitted an application fee of \$232 [~~\$150~~]; and

(5) provided documentation of quality of performance including one of the following:

(A) (No change.)

(B) a written explanation indicating the reason the applicant did not provide the sworn statements required in subparagraph (A) of this paragraph and a detailed description of at least three case histories of typical UST construction activities performed by the applicant during the previous 12 months. ~~[The executive director shall evaluate the explanation and case histories on a case-by-case basis.]~~

§30.317. Qualifications for Registration Renewal.

To renew an underground storage tank (UST) contractor registration[, issued after January 1, 2002,] a person must have:

(1) (No change.)

(2) certified that the UST contractor has commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) [~~\$1 million~~] and of a type approved by the executive director;

(3) (No change.)

(4) submitted a renewal fee of \$232 [~~\$150~~].

§30.319. Exemptions.

(a) A license is not required for:

(1) an on-site supervisor who installs, repairs, or removes underground storage tank (UST) systems when such systems are completely exempt from regulation under §334.3(a) of this title (relating to Exemptions for Underground Storage Tanks (USTs) and UST Systems) or completely excluded from regulation under §334.4(a) of this title (relating to Exclusions for Underground Storage Tanks (USTs) and UST Systems); or

(2) an individual who assists with the installation, repair, or removal of UST systems and is under the direct, on-site supervision of a licensed on-site supervisor.

(b) A registration is not required for a person that installs, repairs, or removes UST systems that are completely exempt from regulation under §334.3(a) of this title, or completely excluded from regulation under §334.4(a) of this title.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701238

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



30 TAC §30.318, §30.319

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

These repeals are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. Additionally, the repeals are proposed under TWC, §26.452, concerning Underground Storage Tank Contractor; and TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing. Finally, these repeals are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These proposed repeals implement TWC, §§5.013, 5.102, 5.103, 26.452, 26.456, and 37.001 - 37.015.

§30.318. Renewal of Licenses and Registrations Issued before the Effective Date of these Rules.

§30.319. Exemptions.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701239

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER J. WASTEWATER OPERATORS AND OPERATIONS COMPANIES

30 TAC §§30.337, 30.340, 30.342, 30.350, 30.355

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also proposed under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, these amendments are proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

§30.337. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (7) (No change.)

(8) Wastewater collection system operator--Any individual, in active field supervision, who provides daily [frequent] on-site inspection and supervision of wastewater collection system operation or maintenance activities.

(9) - (11) (No change.)

(12) Wastewater treatment facility operator--An individual who performs process control tasks or makes performance control decisions at a wastewater treatment facility.

(13) (No change.)

§30.340. Qualifications for Initial License.

(a) - (b) (No change.)

(c) Wastewater collection system experience must be in actual wastewater collection system operation or maintenance duties. Credit for wastewater experience that is not directly connected with collection system operation or maintenance shall be approved if the experience involves tasks that are similar to that required for the operation and maintenance of collection systems. Each year of related experience shall count as 1/2 year of experience. Each year of experience in collection system operation and maintenance shall only count as 1/2 year of experience toward a wastewater treatment facility operator license.

(d) Individuals who request to substitute a bachelors or masters degree for experience at the Class A, Class B, or Class III level must have a major in chemistry, biology, engineering, microbiology, bacteriology, or another similar discipline, as approved by the executive director. ~~[on a case-by-case basis.]~~

(e) Applicants may substitute an equivalent of:

(1) 32 semester hours of college or an additional 40 hours of training credits for one year of the experience requirement; or

(2) 16 semester hours of college or an additional 20 hours of training credits for six months of the experience requirement.

[(e) For applicants with a high school diploma or equivalent, 32 semester hours of college or an additional 40 hours of training credits may be substituted for one year of the experience requirement. The maximum years allowed for substitution are as follows:]

~~[(1) Class A, Class B, and Class III applicants may substitute up to two years of the required work experience; and]~~

~~[(2) Class C and Class II applicants may substitute up to one year of the required work experience.]~~

(f) The maximum years allowed for substitution are as follows:

(1) Class A, Class B, and Class III applicants may substitute up to two years of the required work experience; and

(2) Class C and Class II applicants may substitute up to one year of the required work experience.

(g) [(f)] The hours of training credit required for a license must be in approved courses, which include the following or their equivalents.

Figure: 30 TAC §30.340(g)

[Figure: 30 TAC §30.340(f)]

(h) [(g)] An individual who previously held a Class D license or higher may not apply for a new Class D license if the individual currently operates any activated sludge type facilities, any trickling filter or rotating biological contractor facilities with a permitted daily average flow of 100,000 gallons per day or greater, or any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title (relating to Definitions) for disposal of its effluent. A trickling filter or rotating biological contractor is a secondary aerobic process that uses microbiological organisms attached to a fixed substrate.

§30.342. Qualifications for License Renewal.

(a) To renew a license, an individual must have:

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount of ~~ten hours of~~ approved continuing education equal to that of ten hours per year the license is valid; or

(2) (No change.)

(b) - (d) (No change.)

§30.350. Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required.

(a) (No change.)

(b) Operators of domestic wastewater treatment facilities owned and located on industrial sites that [which] are regulated by industrial-type wastewater disposal permits are required to be licensed, [∴ This is required] only if the point of discharge is separate from any other industrial outfalls and the domestic wastewater is not mixed with other industrial wastewater before discharge.

(c) An individual first entering the field of wastewater treatment or collection may be employed as an operator-in-training for a period up to one year. An operator-in-training must perform all process control tasks [work] in the presence of a licensed operator [during this time].

(d) Each holder of a wastewater disposal permit for a wastewater treatment facility shall employ or contract with one or more licensed wastewater treatment facility operators holding the appropriate level of license or wastewater system operations companies holding a valid [license of] registration and employing licensed wastewater treatment facility operators holding the appropriate level of license.

(e) - (f) (No change.)

(g) A wastewater treatment facility having a combination of treatment processes that [which] are in different categories shall be assigned the higher category.

(h) - (j) (No change.)

(k) When [Where] shift operation of the wastewater treatment facility is necessary, each shift must be operated [which does not have the on-site supervision of the licensed chief operator must be supervised] by an operator in charge who is licensed at not less than one level below the category of the facility.

(l) - (m) (No change.)

(n) Each classified wastewater collection system must employ [have] at least one licensed operator who holds a license class equal to or higher than that category of system and provides frequent on-site supervision of collection system activities. Wastewater collection systems shall be classified as follows.

Figure: 30 TAC §30.350(n) (No change.)

§30.355. Additional Requirements for Wastewater Operations Companies.

(a) When a wastewater operations company submits an application to obtain or renew a registration, it [Every wastewater system operations company] must submit a [an annual] report to the executive director. [within one year and 30 days after issuance or renewal of the registration.] For each [The report shall include for each] wastewater treatment facility or wastewater collection system the report shall include:

(1) the operations company name, location, and mailing address;

(2) the permittee's name and mailing addresses;

(3) the commission permit number, if applicable;

(4) the dates of operation during the registration validity period [reporting year];

(5) the names and license numbers of all licensed operators employed by the operations company; [∴ including their mailing addresses, license classes, license numbers, and the name of each wastewater treatment facility or wastewater collection system for which the operators work or have worked;]

(6) the name of the licensed chief operator for each facility; and

(7) (No change.)

(b) A person that operates a wastewater system operations company under contract must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.

~~[(b) The information in subsection (c) of this section must be submitted with any application for a new or renewal registration, along with the appropriate fee.]~~

(c) Wastewater system operations companies shall pay a three year registration fee based on the number of facilities and collection systems served as indicated in the following table.

Figure: 30 TAC §30.355(c)

[(c) If a company is bought or sold and a name change occurs, the company must apply for a new registration.]

[(d) Once a year, political subdivisions that contract to operate wastewater systems must report to the commission the information required by subsection (a) of this section.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701240

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



30 TAC §30.349

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

This repeal is proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also proposed under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, this repeal is also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

This proposed repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

§30.349. *Registration Fees.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701241

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



SUBCHAPTER K. PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES

30 TAC §§30.381, 30.387, 30.390, 30.392, 30.400

STATUTORY AUTHORITY

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC

§5.103, concerning Rules. These amendments are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, these amendments are proposed under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

§30.381. *Purpose and Applicability.*

(a) The purpose of this subchapter is to establish qualifications for issuing and renewing licenses and registrations to:

(1) (No change.)

(2) operations companies that operate public water systems on a contractual [~~contract~~] basis.

(b) (No change.)

(c) Public water system operator licenses, certificates of competency, and registrations issued before January 1, 2002, remain in effect until they expire, or are replaced, or revoked by the commission.

(d) Renewable Class D licenses, previously issued to individuals who did [~~do~~] not possess a high school diploma or equivalent certificate [~~;~~] may be renewed according to §30.392 of this title (relating to Qualifications for License Renewal).

(e) An individual that is issued a license under this subchapter must perform adequate process control duties as recognized by current best management practices.

(f) (No change.)

§30.387. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

(2) Honorary license--License converted from a perpetual license that has been discontinued by the commission. This honorary license does not award the licensee the authority to perform process control duties in production or distribution of drinking water for public water systems.

(3) - (4) (No change.)

[(5) Process control duties--Activities that directly affect the potability of public drinking water, including: making decisions regarding the day-to-day operations and maintenance of public water system production and distribution; maintaining system pressures; determining the adequacy of disinfection and disinfection procedures; taking routine microbiological samples; taking chlorine residuals and microbiological samples after repairs or installation of lines or appurtenances; and operating chemical feed systems, filtration, disinfection, or pressure maintenance equipment; or performing other duties approved by the executive director.]

[(6) Public water system operations company--A person or other nongovernmental entity that provides operations services to one or more public water systems on a contractual [~~contract~~] basis.

(6) ~~[(7)]~~ Public water system operator--Licensed operator who performs process control duties in production or distribution of drinking water.

(7) Work experience--The actual performance of job tasks in a public water supply system, that are considered essential for the treatment or distribution of drinking water.

§30.390. Qualifications for Initial License.

(a) To obtain a license, an individual must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license.

Figure: 30 TAC §30.390(a)
[Figure: 30 TAC §30.390(a)]

(b) - (d) (No change.)

(e) Individuals ~~[with only a high school diploma or equivalent]~~ may substitute college credits or additional approved training for work experience.

(1) (No change.)

(2) For a Class C license, 16 semester hours of college, or 20 additional hours of approved training may be substituted for six months of work experience, approved by the executive director.

(3) ~~[(2)]~~ For Class B and A licenses, 64 semester hours of college, or 80 additional hours of approved training may be substituted for two years of work experience, approved by the executive director.

(4) For Class B and A licenses, 32 semester hours of college, or 40 additional hours of approved training may be substituted for one year of work experience, approved by the executive director.

(f) Training credits must be in approved courses that include the following or equivalent.

Figure: 30 TAC §30.390(f)
[Figure: 30 TAC §30.390(f)]

(g) An individual who previously held a Class D license ~~shall~~ [may] not apply for a new Class D license if the individual ~~[currently operates facilities]:~~

(1) currently operates facilities at groundwater treatment systems of 250 connections or more;

(2) currently operates facilities at groundwater treatment systems serving a population of 750 or more;

(3) ~~[(2)]~~ currently operates facilities at surface water treatment systems;

(4) ~~[(3)]~~ currently operates facilities at groundwater systems under the influence of surface water;

(5) ~~[(4)]~~ performs supervisor, crew chief, or foremen duties for [who are supervisors of] distribution systems that have over 250 connections; or

(6) ~~[(5)]~~ operates [who operate] multiple groundwater systems and the cumulative number of connections exceeds 250.

§30.392. Qualifications for License Renewal.

(a) To renew a license, an individual must have:

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount ~~[ten hours]~~ of approved continuing education equal to that of ten hours per year the license is valid; or

(2) (No change.)

(b) The basic water training course shall ~~[may]~~ not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for licensed operators:

(1) (No change.)

(2) at groundwater treatment systems serving a population of 750 or more;

(3) ~~[(2)]~~ at surface water treatment systems;

(4) ~~[(3)]~~ at groundwater systems under the influence of surface water;

(5) ~~[(4)]~~ who are supervisors, crew chiefs, or foremen of distribution systems that have over 250 connections; or

(6) ~~[(5)]~~ who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

(d) (No change.)

§30.400. Additional Requirements for Public Water System Operations Companies.

(a) When a public water system operating company submits an application to obtain or renew a registration, it [A public water system operating company] must submit a [an annual] report to the executive director [within 30 days of the anniversary of the effective date of the registration]. The report shall include:

(1) the public water system operating company name, registration number, location, and mailing address;

(2) the public water system identification number and name for each system operated;

(3) the dates of operation during the reporting period [year];

(4) the names and license numbers of all licensed operators employed by the operations company[; including their mailing addresses, classes and license numbers, and systems for which all employees work or have worked during the reporting year];

(5) the names of the licensed chief operators and licensed supervisors; and

(6) (No change.)

~~[(b)] A person that operates a public water system under contract must notify the executive director and amend the information included in the annual report described in subsection (a) of this section within ten days following the month in which the change occurs.]~~

(b) ~~[(e)]~~ A person that operates a public water system under contract must apply for a new registration and submit an amended report if a company is bought or sold and the name of the company changes.

(c) Public water system operating companies shall submit a registration fee based on the number of public water systems served as indicated in the following table.

Figure: 30 TAC §30.400(c)

~~[(d)] Political subdivisions, including river authorities, that operate public water systems under contract must submit the reports required in subsections (b) and (c) of this section to the executive director.]~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.
TRD-200701242
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: May 13, 2007
For further information, please call: (512) 239-0348



30 TAC §30.399

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

STATUTORY AUTHORITY

This repeal is proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also proposed under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

This proposed repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

§30.399. *Registration Fees.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.
TRD-200701243
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: May 13, 2007
For further information, please call: (512) 239-0348



SUBCHAPTER L. VISIBLE EMISSIONS EVALUATOR TRAINING AND CERTIFICATION

30 TAC §§30.500 - 30.508

STATUTORY AUTHORITY

These new sections are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These new sections are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning:

Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These proposed new sections implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015.

§30.500. Purpose and Applicability.

(a) The purpose of this subchapter is to establish standards approved by the executive director to train and certify visible emissions evaluators.

(b) Persons who train and certify visible emissions evaluators must meet the qualifications of this subchapter and be approved by the executive director.

§30.501. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings (unless the context clearly indicates otherwise).

(1) Visible emissions evaluator--A person trained and certified in Texas to conduct visible emissions assessments as determined by testing every six months consistent with the United States Environmental Protection Agency's guidance found in 40 Code of Federal Regulations Part 60 Appendix A, Method 9.

(2) Visible emissions evaluator course--A training course presented by a qualified training provider that has been approved by the executive director.

(3) Visible emissions evaluator training provider--A person that has been approved by the executive director to train and certify visible emission evaluators on both the basic lecture session as well as conduct and perform field training.

§30.502. Terms for Visible Emission Evaluator Certification.

All visible emission evaluator certifications are valid for six months from the date of issuance.

§30.503. Visible Emission Evaluator Course Training Material and Course Approval.

Applications for new visible emissions evaluator course training material and course approval shall be made in accordance with §30.28 of this title (relating to Approval of Training).

§30.504. Visible Emission Evaluator Training Provider Approval.

To obtain approval to train and certify visible emissions evaluators, a person must:

(1) submit an application made on a standard form approved by the executive director;

(2) submit the appropriate fee; and

(3) meet the training criteria approved by the executive director.

§30.505. Requirements for Visible Emission Evaluator Training Providers.

Visible emission evaluator course training providers shall:

(1) train and certify visible emissions evaluators within the State of Texas;

(2) provide the executive director with electronic records of training and certifications, in an acceptable format, as approved by the executive director;

(3) provide telephone and facsimile numbers to assist customers that may inquire about certification status;

(4) respond to inquiries regarding the visible emission evaluator course training and certification program;

(5) be responsible for all training and certification materials, equipment, and training locations including, but not limited to classrooms and field sites; and

(6) be responsible for issuing certificates.

§30.506. Visible Emission Evaluator Training Requirements.

(a) Visible emission evaluator training providers must:

(1) ensure that training meets the general and delivery standards approved by the executive director;

(2) follow the criteria and procedures of Method 9 as established by United States Environmental Protection Agency;

(3) provide a six to eight hour mandatory lecture session for first time students, and those students desiring to attend the lecture session again as a refresher;

(4) present the lecture session to the new students prior to any field training or testing;

(5) present the lecture session in a setting that is conducive to learning; and

(6) use visual aids and handouts to clarify topics that are taught.

(b) Visible emission evaluator training shall include, but is not limited to the following topics:

(1) opacity history to include Ringlemann equivalency;

(2) court cases that uphold opacity readings and procedures;

(3) applicability of Federal and State Method 9 opacity regulations;

(4) Federal and State New Source Performance Standards;

(5) Federal and State New Source Review program;

(6) State operating permits;

(7) State Implementation Plans;

(8) scientific principles of opacity;

(9) methodology of reading visible emissions, to include, but not limited to:

(A) position of sun;

(B) multiple stacks;

(C) water vapor plumes;

(D) slant angle correction;

(E) "red sky" concerns;

(F) not staring at plume;

(G) meteorology;

(H) wind direction and speed; and

(I) contrasting background;

(10) applicability and uses of Method 22, 203A, 203B, and

203C;

(11) proper documentation methods using the various field forms; and

(12) field testing instructions.

(c) The training topics may be modified at the discretion of the executive director.

(d) The training provider will issue a certificate of completion to attendees of the lecture session which will contain the training provider's name, title of course (visible emission evaluator course classroom lecture), student's name, location of lecture, and date of lecture.

(e) The training provider shall develop and submit for executive director approval an exit questionnaire that shall be administered to the attendees upon completion of the lecture. This questionnaire is for determining the effectiveness of the training session and the ability of the instructor to convey the necessary information. The completed questionnaires shall be kept on file for a minimum of three years and be made available to the agency upon request.

§30.507. Field Training and Testing Requirements.

(a) Field training shall:

(1) provide repetition of any field instructions, given at the lecture session, to those attendees attempting recertification who have not had to attend the lecture;

(2) provide familiarization plumes shown before the start of each black portion and each white portion of the field test;

(3) provide for completion of one test run for new students prior to taking a test for certification. The training run shall consist of 25 black readings and 25 white readings, and be given exactly as a regular certification test run. The training run cannot be accepted from the new student as certification, even if the score is within the passing parameters. This training run will be kept on file for three years;

(4) allow attendees that are attempting recertification to take the training run described above before certification.

(b) Field testing shall include:

(1) a complete run which consists of 50 contiguous plumes;

(2) a random order of opacity from 0% to 100%;

(3) avoidance of adverse weather; i.e., drizzle, rain, fog, or high winds;

(4) at least two proctors per each 100 attendees, and two proctors if less than 100 attendees; and

(5) a certificate issued to those students that successfully pass the test that contains the name of the provider, the name of the student, and the date of successful certification. The provider shall number each certificate so that each certificate is unique and not duplicated.

§30.508. Disapproval of Visible Emissions Evaluator Course Training.

(a) The executive director may return without approval, visible emissions evaluator training courses and training material that is determined to contain errors.

(b) The executive director may rescind or deny training approval for good cause, to include, but not be limited to:

(1) training that does not conform to current technical standards or rules;

(2) training that does not conform to the materials as approved;

(3) subject matter that is not related to job tasks performed by licensees;

(4) an instructor not qualified to teach the subject matter;

(5) an instructor that is ineffective in the delivery of the subject matter;

(6) an instructor that promotes or endorses products, product lines, or services from one manufacturer, distributor, or service provider;

(7) participation records or other records that are false or untimely submitted; or

(8) the training provider's noncompliance with a training recall.

(c) The executive director may recall previously approved training for reevaluation and rescind the approval of the training if the training does not meet standards.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701244

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 239-0348



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 85. ADMISSION, PLACEMENT, AND PROGRAM COMPLETION

The Texas Youth Commission proposes amendments to §§85.45, 85.55, 85.59, 85.61, and 85.69, concerning program completion. The amended sections will reduce the amount of time a youth must remain free of serious rule violations in order to be eligible for release on parole from 90 days to 30 days.

Additionally, §85.45 will be amended to establish that operational capacity, rather than budgeted capacity, will be used as the basis for determining when an overpopulation condition exists in a high restriction facility.

Robin McKeever, Assistant Deputy Executive Director for Financial Support, has determined that, for the first five-year period the amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Jay Kimbrough, conservator, has determined that, for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be the expedited release of youth who otherwise qualify for release on parole. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed. No private real property rights are affected by adoption of this rule.

Comments on the proposal may be submitted within 30 days of the publication of this notice to DeAnna Lloyd, Chief of Policy Administration, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765, or E-mail to deanna.lloyd@tyc.state.tx.us.

SUBCHAPTER C. MOVEMENT WITHOUT PROGRAM COMPLETION

37 TAC §85.45

The amendment is proposed under the Human Resources Code, §61.081, which provides the commission with the authority to release under supervision any child in its custody and place the child in his or her home or in any situation or family approved by the commission.

The proposed rule affects the Human Resources Code, §61.034.

§85.45. *Movement Without Program Completion.*

(a) Purpose. The purpose of this policy is to establish criteria and procedures for moving [~~movement of~~] youth who have not met [~~without~~] program completion requirements to placements of equal or lesser restriction.

(b) (No change.)

(c) Explanation of Term Used. Operational Capacity - the identified general population level that a TYC-operated residential facility is appropriately capable of housing. Unless otherwise specified by the executive director or deputy executive director, the operational capacity for a program is equivalent to the budgeted average daily population (ADP). Operational capacity may be set higher than the budgeted ADP when there is need and it has been determined that adequate program space and resources, including personnel, are available to support the higher capacity. Operational capacity may be set lower than the budgeted ADP when program space or resources, including personnel, indicate a reduced population is warranted.

(d) [(e)] General Requirements.

(1) Prior to a transition, a youth may request and in doing so will be granted a Level II hearing.

(2) A plan to minimize risk factors for re-offending shall be developed for each youth prior to release, unless the youth is to be discharged.

(3) All residential programs releasing an undocumented foreign national youth must notify Immigration and Customs Enforcement (ICE) pursuant to §85.79 of this title.

(4) TYC shall comply with Chapter 57, Family Code and Article 56.02, Code of Criminal Procedure, regarding victim notification. Refer to §81.35 of this title regarding victim notification rights.

(5) TYC shall comply with the Sex Offender Registration Program, pursuant to Chapter 62, Code of Criminal Procedure, regarding youth who are subject to sex offender registration. Refer to §87.85 of this title regarding sex offender registration requirements.

(6) Parents or guardians of youth under the age of 18 will be notified of all movements. Youth 18 or older must give consent to disclose any movement information to a parent.

(e) [(d)] Transition Movements.

(1) Eligibility. Type A violent offenders and sentenced offenders are not eligible for transition movement. Youth of eligible classifications must meet transition criteria as set forth in paragraphs (2) and (3) of this subsection to qualify for a transition movement.

(2) Transition Criteria for Youth in Programs where Resocialization is Administered. Youth will be eligible for transition from a high or medium restriction (initial placement) facility to a medium restriction placement when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing within 30 [90] days prior to the exit review; and

(B) no confirmed Category I rule violations through a due process hearing during the approval process, as outlined in paragraph (4) of this subsection; and

(C) completion of minimum length of stay requirements:

(i) general offenders must complete all but three (3) months of the minimum length of stay; or

(ii) Type B violent offenders, chronic serious offenders, controlled substance dealer offenders and firearms offenders must complete all but six (6) months of the minimum length of stay; and

(D) a current assessment of, at a minimum, Resocialization phase A3, B3, C3 with no main objectives or sub-objective indicators under remediation (not applicable to sex offenders with court orders deferring their sex offender registration requirements who have not previously attained phase A4, B4, C4; see §87.85 of this title); and

(E) completion of specialized treatment for Priority 1 youth (unless this requirement is waived in accordance with §87.55 of this title [by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]).

(3) Transition Criteria for Youth in Contract Care Programs where Resocialization is Not Administered. Youth in high restriction contract care programs where Resocialization is not administered will be eligible for transition to a medium restriction placement when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing within 30 [90] days prior to the exit review; and

(B) no confirmed Category I rule violations through a due process hearing during the approval process as outlined in paragraph (4) of this subsection; and

(C) completion of minimum length of stay requirements:

(i) general offenders must complete all but three (3) months of the minimum length of stay; or

(ii) Type B violent offenders, chronic serious offenders, controlled substance dealer offenders and firearms offenders must complete all but six (6) months of the minimum length of stay; and

(D) identify personal motivations for delinquent behavior; and

(E) demonstrate an understanding of their personal delinquent behavior patterns and demonstrate the ability to interrupt their offense patterns; and

(F) complete a plan that:

(i) identifies goals and a plan of action to achieve the identified goals; and

(ii) identifies obstacles that will hinder successful re-entry into the community.

(4) Decision Authority for Approval of Transition.

(A) The final decision authority shall approve the youth's transition plan upon a determination that the youth meets all transition criteria and the transition/release ICP adequately addresses risk factors.

(B) The final decision authority is:

(i) the superintendent if the youth is assigned to a TYC-operated placement; or

(ii) the quality assurance supervisor if the youth is assigned to a contract care placement.

(f) [(e)] Population Control Releases. When overpopulation occurs in any high restriction facility, certain remedial actions are taken. The deputy executive director may cancel or revise any population control measure in effect or implement any other youth movement option when necessary to control population and/or manage available funds concerning youth in residential placement.

(1) Overpopulation Condition.

(A) When population reaches three percent (3%) above operational [budgeted] capacity for general population, the superintendent may invoke population control release procedures, upon the approval of the appropriate director of juvenile corrections.

(B) When population reaches five percent (5%) above operational [budgeted] capacity for general population, the superintendent shall:

(i) invoke population control release procedures; and

(ii) notify the appropriate director of juvenile corrections.

(2) Release Criteria.

(A) The following youth are ineligible for population control release:

(i) Type A violent offenders;

(ii) Sentenced offenders;

(iii) Type B violent offenders whose classification is for manslaughter, criminally negligent homicide, or intoxication manslaughter;

(iv) Priority 1 specialized treatment youth who have not completed treatment (unless the treatment requirement is waived in accordance with §87.55 of this title [by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]); [and]

(v) Sex offenders with court orders deferring their sex offender registration requirements; and [-]

(vi) Any sex offender who will be released to a parole placement where the victim or a potential victim resides. See §87.91 of this title for family reintegration requirements for sex offenders.

(B) Youth who are eligible for release to TYC parole (home or home substitute) due to an overpopulation condition must meet the following criteria:

(i) completion of the minimum length of stay; [and]

(ii) no confirmed Category I rule violations through a due process hearing within 30 days of the release date; and

(iii) [(ii)] a current assessment of, at a minimum, Resocialization phase A3, B3, C3 with no main objectives or sub-objective indicators under remediation. Priority should be given to those who have mastered the most objectives towards completion of A4, B4, C4 Resocialization goals.

(g) [(f)] Administrative Transfers. Administrative transfers may be made among programs of equal restriction without a due process hearing. An administrative transfer shall not be made in lieu of a transfer for which a due process hearing is mandatory.

(h) [(g)] Hardship Cases. In hardship cases, the deputy executive director may approve placing a youth on parole status without meeting program completion criteria.

(i) [(h)] Youth with Mental Illness or Mental Retardation. Pursuant to §87.79 of this title, certain youth shall be discharged following application for appropriate services to address their mental illness or mental retardation.

(j) [(i)] Notification. TYC will notify the committing juvenile court, the prosecuting attorney, the parole officer, and the chief juvenile probation officer in the county to which the youth is being moved no later than ten (10) calendar days prior to the transition or release.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701265

Jay Kimbrough

Conservator

Texas Youth Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 424-6014



SUBCHAPTER D. PROGRAM COMPLETION

37 TAC §§85.55, 85.59, 85.61, 85.69

The amendments are proposed under the Human Resources Code, §61.081, which provides the commission with the authority to release under supervision any child in its custody and place the child in his or her home or in any situation or family approved by the commission.

The proposed rules affect the Human Resources Code, §61.034.

§85.55. *Program Completion for Other Than Sentenced Offenders.*

(a) - (c) (No change.)

(d) Program Completion Criteria.

(1) Youth Whose Classifying Offense is Other Than a Sentenced Offender. Youth whose classifying offense is other than a sentenced offender will be eligible for release to TYC parole (home or home substitute) when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing, within 30 [90] days prior to the Special Services Committee (SSC) exit interview/review; and

(B) - (D) (No change.)

(E) completion of specialized treatment for Priority 1 youth (unless this requirement is waived in accordance with §87.55 of this title [by the assistant deputy executive director for rehabilitation

services and the assistant deputy executive director for juvenile corrections]).

(2) Youth in Contract Care Programs Where Resocialization is Not Administered. Youth in high or medium restriction contract care programs where Resocialization is not administered will be eligible for release to TYC parole (home or home substitute) when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing, within 30 [90] days prior to the exit review; and

(B) - (F) (No change.)

(e) - (g) (No change.)

(h) Release Date.

(1) (No change.)

(2) For Other Than Type A Offenders.

(A) (No change.)

(B) If the SSC confirms the youth meets program completion criteria, the youth shall be released within 14 calendar days after the date the youth met program completion criteria, unless an extension has been granted beyond the 14 calendar days. Upon approval by the appropriate director of juvenile corrections, additional time may be granted beyond the 14 calendar days, but not to exceed 30 calendar days from the exit review, to address serious concerns related to the well-being of the youth and/or the community.

(C) (No change.)

(i) (No change.)

§85.59. *Program Completion for Sentenced Offenders Under Age 19.*

(a) - (c) (No change.)

(d) Program Completion Criteria.

(1) A sentenced offender youth whose offense was committed before September 1, 2005 will be eligible for a release from a high restriction facility to TYC parole (home or home substitute) when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing, within 30 [90] days prior to the SSC exit interview; and

(B) - (D) (No change.)

(E) completion of specialized treatment for Priority 1 youth (unless this requirement is waived in accordance with §87.55 of this title [by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]).

(2) A sentenced offender youth whose offense was committed on or after September 1, 2005, may be considered for release to TYC parole (home or home substitute) when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing, within 30 [90] days prior to the SSC exit interview; and

(B) - (D) (No change.)

(E) completion of specialized treatment for Priority 1 youth (unless this requirement is waived in accordance with §87.55 of this title [by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]).

(e) - (i) (No change.)

§85.61. Program Completion for Sentenced Offenders Age 19 or Older.

(a) Purpose. The purpose of this rule is to establish criteria and the approval process for transferring a sentenced offender youth age 19 or older ~~[upon program completion]~~ to the Texas Department of Criminal Justice-Parole Division (TDCJ-PD) upon program completion.

(b) - (c) (No change.)

(d) Program Completion Criteria.

(1) A sentenced offender youth who is between age 19 and 21 in high restriction facilities will be transferred to TDCJ-PD (court approval is not required) when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing within 30 ~~[90]~~ days prior to the SSC exit interview; and

(B) - (D) (No change.)

(E) ~~[successful]~~ completion of specialized treatment for Priority 1 youth (unless this requirement is waived in accordance with §87.55 of this title ~~[by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]~~).

(2) A sentenced offender youth in a high restriction facility whose offense was committed on or after September 1, 2005, may be considered for transfer to TDCJ-PD (court approval is not required) when the following criteria have been met:

(A) no confirmed Category I rule violations through a due process hearing within 30 ~~[90]~~ days prior to the SSC exit interview;

(B) - (D) (No change.)

(E) completion of specialized treatment for Priority 1 youth (unless this requirement is waived in accordance with §87.55 of this title ~~[by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]~~).

(e) - (j) (No change.)

§85.69. Program Completion for Sentenced Offenders Adjudicated for Capital Murder.

(a) - (c) (No change.)

(d) Release/Transfer Criteria.

(1) Youth Whose Offense was Committed Before September 1, 2003.

(A) TYC will request a hearing by the committing juvenile court with a recommendation to transfer to TDCJ-PD if a youth (before 20 years and 6 months of age) meets the following criteria:

(i) no confirmed Category I rule violations through a due process hearing, within 30 ~~[90]~~ days prior to the SSC exit interview; and

(ii) - (iv) (No change.)

(v) completion of ~~[if the youth was assessed as a Priority 1 need for]~~ specialized treatment for Priority 1 youth; ~~[the youth has completed specialized treatment]~~ (unless this requirement is waived in accordance with §87.55 of this title ~~[by the assistant deputy executive director for rehabilitation services and the assistant deputy executive director for juvenile corrections]~~).

(B) - (C) (No change.)

(2) - (3) (No change.)

(e) - (g) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701264

Jay Kimbrough

Conservator

Texas Youth Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 424-6014



CHAPTER 87. TREATMENT

SUBCHAPTER B. SPECIAL NEEDS

OFFENDER PROGRAMS

37 TAC §87.55

The Texas Youth Commission proposes an amendment to §87.55, concerning waivers from the requirement to complete certain specialized treatment programs. The amendment to the section will give the Director of Treatment and Case Management the authority to grant waivers for certain youth who would otherwise be required to complete the chemical dependency treatment program, sexual behavior treatment program, or capital and serious violent offender treatment program in order to qualify for release on parole. This approval authority is currently shared between the Assistant Deputy Executive Director for Juvenile Corrections and the Assistant Deputy Executive Director for Clinical Services.

Robin McKeever, Assistant Deputy Executive Director for Financial Support, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Jay Kimbrough, conservator, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient process for granting timely waivers out of specialized treatment. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed. No private real property rights are affected by adoption of this rule.

Comments on the proposal may be submitted within 30 days of the publication of this notice to DeAnna Lloyd, Chief of Policy Administration, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765, or email to deanna.lloyd@tyc.state.tx.us.

The amendment is proposed under the Human Resources Code, §61.075 and §61.034, which provide the commission with the authority to confine a youth under conditions it believes are best designed for the youth's welfare and make rules appropriate to the proper accomplishment of its functions.

The proposed rule affects the Human Resources Code, §61.034.

§87.55. Waivers from Certain Specialized Treatment Programs.

(a) (No change.)

(b) Applicability. This rule only applies to Priority 1 youth who are assigned to the Chemical Dependency Treatment Program, the Capital and Serious Violent Offender Treatment Program, and the Sexual Behavior Treatment Program. For a definition of Priority 1 youth, see §85.51 of this title.

(c) - (d) (No change.)

(e) Decision Authority for Waivers.

(1) The director of treatment and case management shall determine whether criteria for granting a waiver ~~[The facility administrator forwards the request for a waiver of specialized treatment completion to the assistant deputy executive director of juvenile corrections and the assistant deputy executive director of rehabilitation services to determine if waiver criteria] have been met.~~ When a determination has been made that the youth meets the criteria ~~[for the waiver]~~, the waiver shall be granted.

(2) The director of treatment and case management ~~[assistant deputy executive director for juvenile corrections and the assistant deputy executive director for rehabilitation services]~~ may grant a youth a waiver from specialized treatment for any reason deemed ~~[they deem]~~ appropriate.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701266

Jay Kimbrough

Conservator

Texas Youth Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 424-6014



CHAPTER 93. YOUTH RIGHTS AND REMEDIES

37 TAC §93.33

The Texas Youth Commission proposes an amendment to §93.33, concerning youth rights and remedies. The amendment to the section added an additional approval process for resolution and official closure of investigation reports when a supervisor of abuse and neglect investigations does not agree with the investigation report submitted by an investigator who gathered the evidence in the case. All officially closed investigations reports must contain the signature of the supervisor who was responsible for making the final closure determination and the signature of the investigator(s) who was the author of the investigation report.

Robin McKeever, Assistant Deputy Executive Director for Financial Support, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Jay Kimbrough, Conservator, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide efficient use of agency resources. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

No private real property rights are affected by adoption of this rule.

Comments on the proposal may be submitted within 30 days of the publication of this notice to DeAnna Lloyd, Chief of Policy Administration, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765, or email to deanna.lloyd@tyc.state.tx.us.

The amendment is proposed under the Human Resources Code, §61.034, which provides the commission with the authority to make rules appropriate to the proper accomplishment of its function.

The proposed rule affects the Human Resources Code, §61.034.

§93.33. *Alleged Abuse, Neglect, and Exploitation.*

(a) (No change.)

(b) Applicability.

(1) (No change.)

(2) See §93.31 of this title for procedures regarding the resolution of youth complaints. ~~[For procedures regarding the resolution of youth complaints, refer to §93.31 of this title (relating to Complaint Resolution System).]~~

(3) See §93.53 of this title for procedures regarding appeals to the executive director. ~~[For procedures regarding appeals to the executive director, refer to §93.53 of this title (relating to Appeal to Executive Director).]~~

(4) See §99.51 of this title for procedures regarding reporting the death of a youth. ~~[For procedures regarding reporting the death of a youth, refer to §99.51 of this title (relating to Death of a Youth).]~~

(c) - (d) (No change.)

(e) Reporting Contents.

(1) A report under subsection (d)(1) of this section submitted by a person other than a TYC staff member may be made orally or in writing to the facility's CLA or any TYC staff member. A TYC staff member who receives a report made under subsection (d)(1) of this section must immediately submit the report in writing to the facility's CLA. ~~[A report under subsection (d)(1) of this section will be made orally or in writing to the facility's CLA or any TYC staff member. A youth or parent may also make the report by filing a complaint under the complaint resolution procedures in §93.31 of this title. A TYC staff member who receives a report made under subsection (d)(1) of this section will refer it immediately to the facility's CLA.]~~

(2) A report under subsection(d)(1) of this section made by a TYC staff member must be submitted in writing to the facility's CLA.

(3) A youth or parent may make a report by filing a complaint under the complaint resolution system pursuant to §93.31 of this title.

(4) ~~[(2)]~~ The person making a report will provide as much detailed information as possible regarding the circumstances of the report, including the identity of persons involved, the location and time of relevant events, and the identity of others who may provide further information.

(5) ~~[(3)]~~ The person receiving a report under this section will take whatever immediate steps the person believes are necessary to protect the youth and to preserve evidence that may be pertinent to an investigation of the matter.

(f) - (h) (No change.)

(i) Investigation Report - Submission and Closure.

(1) - (4) (No change.)

(5) All officially closed investigation reports must contain the signature of the deputy chief inspector general who was responsible for making the final closure determination and the signature of the investigator who gathered the evidence in the case.

(6) In the event the deputy chief inspector general does not agree with any part of the report prepared by the investigator who gathered the evidence in the case, the report must:

(A) include a statement by the deputy chief inspector general which describes the reasons for his/her disagreement;

(B) be forwarded to the chief inspector general for resolution;

(C) include the signature of the chief inspector general for official closure of the report.

(7) [(5)] If the allegation was reported by a medical health professional [provider] (MHP) who is employed by or contracts with University of Texas Medical Branch (UTMB) or the Texas Tech University Health Sciences Center (TTUHSC), the MHP will be notified in writing by the deputy chief inspector general or designee of the results of the investigation and the MHP's right to appeal the findings of the investigation report pursuant to §93.53 of this title.

(j) - (l) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701267

Jay Kimbrough

Conservator

Texas Youth Commission

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 424-6014



PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.17

(Editor's Note: The Memorandum of Understanding is published in this issue of the Texas Register under 19 TAC §300.3. Please refer to Figure: 19 TAC §300.3(a) in the Tables and Graphics section for the text of Figure: 37 TAC §159.17(a).)

The Texas Board of Criminal Justice (TBCJ) files this notice of intent to propose a new §159.17, Employment Referral Services for Offenders, which authorizes the Agency to adopt a memorandum of understanding (MOU) between the Texas Department of Criminal Justice (TDCJ), the Texas Workforce Commission (TWC), the Texas Youth Commission (TYC) and the Windham School District (WSD).

The purpose of the rule is to establish the responsibilities of each agency in the administration of the Project for Reintegration of Offenders.

Charles Marsh, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for the first five (5) years the rule will be in effect, enforcing or administering the rule will not have foreseeable implications related to costs or revenues for state or local government.

Mr. Marsh has also determined that for the first five (5) year period there will not be an economic impact on persons required to comply with the rule. There will not be an effect on small or micro businesses. The anticipated public benefit, as a result of enforcing the rule, will be to provide employment referral services for offenders for their successful reentry into the community.

Comments should be directed to Melinda Hoyle Bozarth, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas 78711, Melinda.Bozarth@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this rule.

The new rule is proposed under Texas Government Code, §501.095 and Texas Labor Code, §306.004 and §306.005.

Cross Reference to Statutes: Texas Education Code, §19.011 and Texas Government Code §771.001, et seq.

§159.17. Employment Referral Services for Offenders--Memorandum of Understanding.

(a) The Texas Department of Criminal Justice (TDCJ) adopts the following memorandum of understanding (MOU) with the Texas Workforce Commission, the Texas Youth Commission (TYC) and the Windham School District (WSD).

Figure: 37 TAC §159.17(a)

(b) This MOU is required by the Texas Government Code, §501.095 and Texas Labor Code, §306.004 and §306.005.

(c) Copies of the MOU are filed in the TDCJ Parole Division, 8610 Shoal Creek Blvd., Austin, Texas 78758 and may be reviewed during regular business hours.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701254

Melinda Bozarth

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 463-0422



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 48. COMMUNITY CARE FOR AGED AND DISABLED

SUBCHAPTER H. ELIGIBILITY

40 TAC §48.2906

The Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), an amendment to §48.2906, concerning age requirements for Community Care for Aged and Disabled (CCAD) services, in Chapter 48, Community Care for Aged and Disabled.

Background and Purpose

The purpose of the amendment is to implement an age requirement for CCAD primary home care services (in-home unskilled attendant care for individuals who have a medical need for specific tasks, as provided under Title XIX of the Social Security Act). The rule currently states that there is no age requirement for CCAD primary home care services. However, in response to the settlement agreement in *Alberto N., et al. vs. Albert Hawkins and James Hine*, HHSC will offer personal care services (i.e., unskilled attendant care) to persons under 21 years of age. Upon implementation of HHSC's new personal care services program, DADS will make its CCAD primary home care services available only to persons who are 21 years of age or older. However, to provide continuity of care for individuals who would age out of HHSC's personal care services program within three months after the new program begins, the amendment allows a current consumer of CCAD primary home care services who is eligible for Texas Health Steps and who becomes 21 years of age during the three-month period, to continue receiving CCAD primary home care services.

Section-by-Section Summary

The amendment changes the structure of the current rule to make the requirements easier to understand. It states that a person 18 years of age or older, or an emancipated minor, may receive CCAD services, with several exceptions. The exceptions are for CCAD Medicaid-funded day activity and health services (for which there is no age requirement), for CCAD Medicaid-funded community attendant services (for which there is no age requirement for a person who is not eligible for the Texas Health Steps program), and for CCAD primary home care services (for which a person must be 21 years of age or older, except a current CCAD primary home care services consumer who is eligible for Texas Health Steps and who will become 21 years of age within three months after the effective date of the amendment). The amendment also provides a reference to the personal care services program at HHSC for an individual under the age of 21 who is eligible for Texas Health Steps.

Fiscal Note

Gordon Taylor, DADS Chief Financial Officer, has determined that, for the first five years the proposed amendment is in effect, enforcing or administering the amendment does not have foreseeable implications relating to costs or revenues of state or local governments.

Small Business and Micro-business Impact Analysis

DADS has determined that there is no adverse economic effect on small businesses or micro-businesses, or on businesses of any size, as a result of enforcing or administering the amendment, because the amendment applies to the eligibility of an individual for services and not to a business.

Public Benefit and Costs

Gary Jessee, DADS Assistant Commissioner for Access and Intake, has determined that, for each year of the first five years the amendment is in effect, the public benefit expected as a result

of enforcing the amendment is that children under the age of 21 will have access to a greater array of personal care services and that Texas Health Steps-eligible children will have a better continuum of care in combination with skilled nursing services.

Mr. Jessee anticipates that there will not be an economic cost to persons who are required to comply with the amendment. The amendment will not affect a local economy.

Takings Impact Assessment

DADS has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

Public Comment

Questions about the content of this proposal may be directed to Sharon Wallace at (512) 438-3729 in DADS' Access and Intake Local Procedure Development and Support Unit. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-027, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030, or street address 701 West 51st St., Austin, TX 78751; faxed to (512) 438-5759; or e-mailed to rulescomments@dads.state.tx.us. To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be either (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS' last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 027" in the subject line.

Statutory Authority

The amendment is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program.

The amendment affects Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §161.021.

§48.2906. Age.

(a) A person must be 18 years of age or older, or an emancipated minor, to receive Community Care for the Aged and Disabled (CCAD) services, except:

(1) a person of any age may receive CCAD Medicaid-funded day activity and health services;

(2) a person of any age who is not eligible for the Texas Health Steps program may receive CCAD Medicaid-funded community attendant services; and

(3) a person must be 21 years of age or older to receive CCAD primary home care services, except a current CCAD primary

home care services consumer who is eligible for Texas Health Steps and who becomes 21 years of age within three months after the effective date of this section.

(b) A person under 21 years of age who is eligible for the Texas Health Steps program may be eligible for personal care services provided through the Texas Health and Human Services Commission.

~~[(a) Except as specified in subsections (b) - (e) of this section, clients must be at least 18 to receive CCAD services.]~~

~~[(b) No age limits apply to CCAD Medicaid services (primary home care and day activity and health services).]~~

~~[(c) Emancipated minors may receive CCAD services without regard to age.]~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701246

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: May 13, 2007

For further information, please call: (512) 438-4162

◆ ◆ ◆

WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 20. ADMINISTRATION SUBCHAPTER B. ACCESS TO AND CHARGES FOR RECORDS

16 TAC §20.101

The Railroad Commission of Texas withdraws the proposed amendments to 16 TAC §20.101 which appeared in the December 1, 2006 issue of the *Texas Register* (31 TexReg 9674).

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701211

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Effective date: March 29, 2007

For further information, please call: (512) 475-1295



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 1. CENTRAL ADMINISTRATION SUBCHAPTER A. PRACTICE AND PROCEDURES

DIVISION 1. PRACTICE AND PROCEDURES

34 TAC §1.41

The Comptroller of Public Accounts withdraws the proposed amendments to §1.41 which appeared in the February 2, 2007, issue of the *Texas Register* (32 TexReg 441).

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701219

Martin Cherry

General Counsel

Comptroller of Public Accounts

Effective date: March 29, 2007

For further information, please call: (512) 475-0387



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 93. YOUTH RIGHTS AND REMEDIES

37 TAC §93.15, §93.33

The Texas Youth Commission withdraws the proposed amendments to §93.15 and §93.33 which appeared in the January 12, 2007, issue of the *Texas Register* (32 TexReg 159).

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701274

Jay Kimbrough

Conservator

Texas Youth Commission

Effective date: April 2, 2007

For further information, please call: (512) 424-6014



CHAPTER 99. GENERAL PROVISIONS

SUBCHAPTER C. MISCELLANEOUS

37 TAC §99.51

The Texas Youth Commission withdraws the proposed amendments to §99.51 which appeared in the January 12, 2007, issue of the *Texas Register* (32 TexReg 160).

Filed with the Office of the Secretary of State on April 2, 2007.

TRD-200701275

Jay Kimbrough

Conservator

Texas Youth Commission

Effective date: April 2, 2007

For further information, please call: (512) 424-6014



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text as published in the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE

The Health and Human Services Commission (HHSC) adopts amendments to §353.2 and adds new §§353.701 - 353.703 in new Subchapter H to implement the Integrated Care Management (ICM) program as required by House Bill (H.B.) 1771 and Senate Bill (S.B.) 1188, 79th Legislature, Regular Session, 2005, codified at §533.061 and §533.062, Government Code, relating to Integrated Care Management. The rules are adopted without changes to the proposed text as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10450) and will not be republished.

H.B. 1771 and S.B. 1188 require that HHSC promulgate rules to implement the ICM model. ICM is a non-capitated managed care plan that integrates acute care and long term services and supports for Supplemental Security Income (SSI) and SSI-related clients. By law, the model is required to be implemented in the Dallas Service Area. At the request of local public officials, the HHSC Executive Commissioner has also approved implementing the model in the Tarrant Service Area.

Amended §353.2 adds definitions for 1915(c) Nursing Facility Waiver, Integrated Care Management, ICM Contractor, Long-Term Services and Supports, Medical Assistance Only (MAO) and Post-stabilization Care Services. Amended §353.2 also includes clerical changes and clarifications for existing definitions. New §353.701 describes the general provisions related to the ICM model. New §353.702 describes client eligibility for the model. New §353.703 describes the roles and responsibilities of providers wishing to participate in the ICM model.

HHSC did not receive comments regarding the proposed rules during the 30-day comment period, which included a public hearing on January 29, 2007.

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §353.2

The amendment is adopted under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021; and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 28, 2007.

TRD-200701194

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Effective date: July 1, 2007

Proposal publication date: December 29, 2006

For further information, please call: (512) 424-6900



SUBCHAPTER H. INTEGRATED CARE MANAGEMENT PROGRAM

1 TAC §§353.701 - 353.703

The new rules are adopted under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021; and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 28, 2007.

TRD-200701195

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Effective date: July 1, 2007

Proposal publication date: December 29, 2006

For further information, please call: (512) 424-6900



TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 101. GENERAL ADMINISTRATION

7 TAC §101.5

The Texas State Securities Board adopts an amendment to §101.5, concerning charges for copies of public records, without changes to the proposed text as published in the January 5, 2007, issue of the *Texas Register* (32 TexReg 14).

The amendment updates the rule to reflect the relocation of state copy charges rules from the Texas Building and Procurement Commission to the Office of the Attorney General.

The rule correctly references the location of the copy charges rules in the Texas Administrative Code.

No comments were received regarding adoption of the amendment.

Statutory authority: Texas Civil Statutes, Article 581-28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

Cross-reference to Statute: Texas Government Code, §552.262.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701225

Denise Voigt Crawford

Securities Commissioner

State Securities Board

Effective date: April 19, 2007

Proposal publication date: January 5, 2007

For further information, please call: (512) 305-8303



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 8. PIPELINE SAFETY REGULATIONS

SUBCHAPTER C. REQUIREMENTS FOR NATURAL GAS PIPELINES ONLY

16 TAC §8.201

The Railroad Commission of Texas adopts amendments to §8.201, relating to Pipeline Safety Program Fees, without changes to the version published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 697). The adopted amendments in §8.201(b) change the calendar year for the reports from 2005 to 2006, and change the deadline by which the annual pipeline safety program fee is to be paid from March 15, 2006, to April 20, 2007.

The Commission received no comments on the proposed amendments.

The Commission adopts the amendments under Texas Utilities Code, §§121.201 - 121.210, which authorize the Commission to adopt safety standards and practices applicable to the transportation of gas and to associated pipeline facilities within Texas to the maximum degree permissible under, and to take any other requisite action in accordance with, 49 United States Code Annotated, §§60101, *et seq.*; and Texas Utilities Code, §121.211, which authorizes the Railroad Commission to adopt, by rule, an inspection fee to be assessed annually against operators of natural gas distribution pipelines and their pipeline facilities.

Texas Utilities Code, §§121.201 - 121.211; and 49 United States Code Annotated, §§60101, *et seq.*, are affected by the adopted amendments.

Statutory authority: Texas Utilities Code, §§121.201- 121.211; and 49 United States Code Annotated, §§60101, *et seq.*

Cross-reference to statute: Texas Utilities Code, Chapter 121, and 49 United States Code Annotated, Chapter 601.

Issued in Austin, Texas, on March 29, 2007.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701209

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Effective date: April 18, 2007

Proposal publication date: February 23, 2007

For further information, please call: (512) 475-1295



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 11. CONTRACTS

The Texas Commission on Environmental Quality (commission) adopts the amendments to §§11.1 - 11.3 and §11.200. Section 11.1 and §11.3 are adopted *with non-substantive changes* to the proposed text as published in the December 1, 2006, issue of the *Texas Register* (31 TexReg 9681). Section 11.2 and §11.200 are adopted *without changes* and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

Certain Texas Building and Procurement Commission (TBPC) rules require that agencies adopt them by reference. Since TBPC has amended some of its rules, the adoptions in the TCEQ rules are being updated. Also, the names of agencies referenced in the rules have changed; therefore, the names are being updated. Several clarifications are being made to better organize and more thoroughly explain the rules. Several typographical errors are being corrected.

Also, the 77th Legislature, 2001, passed House Bill (HB) 2812. The bill renumbered Texas Government Code, Chapter 2259 to Chapter 2261. This adoption of the rules is necessary to update the reference to the chapter and sections of the statutes.

SECTION BY SECTION DISCUSSION

The adopted amendment makes administrative changes to §11.1 to change references to the Texas Natural Resource Conservation Commission to the Texas Commission on Environmental Quality and references to the Texas General Services Commission to the Texas Building and Procurement Commission. A reference to the issue date of a TBPC rule is also updated to reference the most recent amendment of the rule.

In §11.2(a), the adopted amendment clarifies who can file a protest by adding "proposer" to the list. Also, the phrase "or his designee (hereafter Manager)" is moved for clarity. The adoption makes subsection (e)(3) parallel to subsection (e)(2) by explaining that the Procurements and Contracts Manager will include in its letter the appropriate remedial action. A typographical error is corrected in subsection (g) with the removal of the word "either." Subsection (h) is deleted and reinserted as subsection (i) and subsection (i) is relettered as subsection (h) to improve the logical order of the subsections. In the new subsection (h) a phrase is moved to improve clarity, "in writing by the executive director" and a phrase that does not coincide with the rest of the rule is removed, "either by the commission."

The adopted amendment makes an administrative change to §11.3, changing references to the Texas Natural Resource Conservation Commission to the Texas Commission on Environmental Quality in subsection (c) and a reference to the Texas General Services Commission to the Texas Building and Procurement Commission in subsection (a). Also in subsection (a), a reference to the issue date of a TBPC rule is updated to reference the most recent amendment of the rule and the subject of the referenced rule is clarified.

In §11.200, the adopted amendment updates the reference to Texas Government Code, Chapter 2259, and a related statute, to Chapter 2261.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in §2001.0225. The intent of the adopted rulemaking is to update agency names and references to rules, provide for more logical sequencing of phrases and subsections in the rules, and to clarify who the rules apply to and the contents of a letter from the Manager of Procurements and Contracts.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the draft regulatory impact analysis.

TAKINGS IMPACT ASSESSMENT

The commission evaluated the adopted rules and performed an assessment of whether the adopted rules constitute a taking under Texas Government Code, Chapter 2007. The specific purpose of the adopted rules is to update agency names and references to rules, provide a more logical sequencing of phrases and subsections in the rules, and to clarify who the rules apply to and the contents of a letter from the Manager of Procurements and Contracts. The adopted rules will substantially advance this stated purpose.

Promulgation and enforcement of the adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally), nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations.

There are no burdens imposed on private real property, and the benefits to society are greater clarification of the rule.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

PUBLIC COMMENT

The close of comment deadline was January 2, 2007. No comments were received from the public.

SUBCHAPTER A. HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM

30 TAC §11.1

STATUTORY AUTHORITY

The amendment is adopted under Texas Water Code (TWC), §5.103(a), which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

The adopted amendment implements TWC, §5.103(a), which provides that the commission has the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

§11.1. Historically Underutilized Business Program.

The commission adopts by reference the rules of the Texas Building and Procurement Commission in 1 TAC §§111.11 - 111.22 and §§111.26 - 111.28 (relating to Historically Underutilized Business Program), as amended through the November 5, 2004, issue of the *Texas Register* (29 TexReg 10249).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701220

Kevin McCalla

Director, General Law Division

Texas Commission on Environmental Quality

Effective date: April 19, 2007

Proposal publication date: December 1, 2006

For further information, please call: (512) 239-6087



SUBCHAPTER B. PROTEST PROCEDURES FOR VENDORS

30 TAC §11.2

STATUTORY AUTHORITY

The amendment is adopted under Texas Water Code, §5.103(a), which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

The adopted amendment implements TWC, §5.103(a), which provides that the commission has the authority to adopt rules

necessary to carry out its powers and duties under the TWC and other laws of the state.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701222

Kevin McCalla

Director, General Law Division

Texas Commission on Environmental Quality

Effective date: April 19, 2007

Proposal publication date: December 1, 2006

For further information, please call: (512) 239-6087



SUBCHAPTER C. BID OPENING AND TABULATION

30 TAC §11.3

STATUTORY AUTHORITY

The amendment is adopted under Texas Water Code, §5.103(a), which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

The adopted amendment implements TWC, §5.103(a), which provides that the commission has the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

§11.3. *Bid Opening and Tabulation.*

(a) The commission adopts by reference the rules of the Texas Building and Procurement Commission in 1 TAC §113.5(b) (relating to Bid Submission, Bid Opening, and Tabulation), as amended through the September 8, 2000, issue of the *Texas Register* (25 TexReg 8848).

(b) The adoption of this rule is required by Texas Government Code, §2156.005(d), 75th Legislature, 1997.

(c) Copies of the rule are filed in the Texas Commission on Environmental Quality's (TCEQ) Library, located at 12100 Park 35 Circle, Building A, Austin, and at all TCEQ regional offices.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701223

Kevin McCalla

Director, General Law Division

Texas Commission on Environmental Quality

Effective date: April 19, 2007

Proposal publication date: December 1, 2006

For further information, please call: (512) 239-6087



SUBCHAPTER E. CONTRACTS MONITORING ROLES AND RESPONSIBILITIES

30 TAC §11.200

STATUTORY AUTHORITY

The amendment is adopted under Texas Water Code, §5.103(a), which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

The adopted amendment implements TWC, §5.103(a), which provides that the commission has the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701221

Kevin McCalla

Director, General Law Division

Texas Commission on Environmental Quality

Effective date: April 19, 2007

Proposal publication date: December 1, 2006

For further information, please call: (512) 239-6087



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 1. CENTRAL ADMINISTRATION

SUBCHAPTER A. PRACTICE AND PROCEDURES

DIVISION 1. PRACTICE AND PROCEDURES

34 TAC §§1.1, 1.4 - 1.7, 1.9 - 1.11, 1.14 - 1.16, 1.18, 1.20, 1.27 - 1.29, 1.33, 1.36, 1.37, 1.39, 1.42

The Comptroller of Public Accounts adopts amendments to §§1.1, 1.4 - 1.7, 1.9 - 1.11, 1.14 - 1.16, 1.18, 1.20, 1.27 - 1.29, 1.33, 1.36, 1.37, 1.39, and 1.42. Section 1.20 is adopted with changes to the proposed text as published in the February 2, 2007, issue of the *Texas Register* (32 TexReg 441). Sections 1.1, 1.4 - 1.7, 1.9 - 1.11, 1.14 - 1.16, 1.18, 1.27 - 1.29, 1.33, 1.36, 1.37, 1.39, and 1.42 are adopted without changes and will not be republished.

The Comptroller adopts amendments to §1.1, concerning the intent, scope, and construction of rules (subsections (b) and (c) were added to explain the function of these rules and SOAH's involvement), §1.4, concerning representation and participation (this section was amended to reflect SOAH's involvement in the hearings process), §1.5, concerning initiation of a hearing (the amendments to this section are non-substantive corrections), §1.6, concerning extension of time for initiating hearing process (subsection (b) was deleted to avoid duplication with §1.20), §1.7, concerning content of statement of grounds and preliminary conference (this section was amended to elaborate on the taxpayer's responsibilities when submitting a statement of grounds, and to eliminate provisions no longer necessary), §1.9, concerning the position letter (subsection (b) was deleted because it is covered in §1.28, new subsection (b) was added to address the 180-day requirement previously in §1.15), §1.10,

concerning acceptance or rejection of the position letter (this section was amended to address the new procedures required because of the involvement of SOAH), §1.11, concerning modification of the position letter (this section was amended so the it corresponds to the new procedures in §1.10), §1.14, concerning notice of setting for certain cigarette, cigar, and tobacco cases (this section was amended to limit it to certain types of cases), §1.15, concerning reply to the position letter (subsection (b) was moved to §1.14, subsection (d) was moved to §1.9, the remaining amendments to this section are to clarify the new procedures), §1.16, concerning response of the administrative hearings section (this section was amended to reflect the new procedures), §1.18, concerning filing of documents (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.20, concerning continuances (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.27, concerning proposal for decision (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.28, concerning comptroller's decision (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.29, concerning motions for rehearing (this amendment is non-substantive and reflects the new procedure), §1.33, concerning discovery (this section was amended to denote that SOAH's rules for discovery will be followed; Most of the previous rule was deleted as unnecessary, conflicting, and duplicative), §1.36, concerning interested parties (this section was amended to clarify the procedure for interested parties to be admitted), §1.37, concerning joint hearings and severance (this section was amended due to the transfer of the administrative law judges), §1.39, concerning dismissal of cases (this section was amended to delete unnecessary provisions due to the transfer to SOAH), and §1.42, concerning definitions (this section was amended to add definitions for new terms resulting from the transfer of functions to SOAH).

We received comments from the Texas Association of Business (TAB) and the Texas Taxpayers and Research Association (TTARA). Both groups were concerned that the amendments did not provide for resolution of all procedural disputes by the State Office of Administrative Hearings (SOAH) and that appropriate deadlines were not imposed on the agency. To address that concern, clarifying language was added to §1.20 to provide that a taxpayer could request that a case be referred to SOAH whenever a procedural dispute arose after the issuance of the position letter. SOAH will then set all filing deadlines for both parties.

TTARA requested that §1.5 be amended to include requirements for the agency's determination notices. Because determination notices are issued prior to the hearings process the comptroller has determined that this request is beyond the scope of these rules. However, the comptroller has instructed auditors to more fully describe and explain the reasons for adjustments in audits.

TTARA requested that §1.7(b) and (c) be amended to allow additional time for a taxpayer to raise new issues. The comptroller determined that this request would violate the restrictions of Tax Code, §111.207, which controls the tolling of the statute of limitations.

TTARA requested that §1.7(c) be amended to require that the comptroller submit all cases to SOAH for resolution on any motion to dismiss. The comptroller declined to make this change since it would require matters to be submitted to SOAH about which no disagreement exists.

TTARA requested that we amend §1.9(a) to detail the requirements for a Position Letter. Since the contents of a Position Letter depend on the individual statement of grounds, the comptroller determined that it would be impractical to add more detail to this rule.

TTARA requested that we amend §1.10 to increase the time allowed for a taxpayer to respond to a Position Letter. The comptroller declined to make this change, but will instead change §1.20 to allow a taxpayer to request the assignment of a SOAH administrative law judge if a procedural dispute arises.

TTARA requested that we amend §1.1(c) to allow a taxpayer to directly appeal to SOAH. However, since SOAH will only accept requests to docket cases from an agency, clarifying language was added to §1.22(b) to reflect that, upon a taxpayer's request, we will file the request to docket the case with SOAH.

TTARA requested that we amend §1.9(b) to restrict the application of the 180-day documentation demand letter provided for in Tax Code, §111.105(e). The comptroller believes that §1.9(b) already restricts the application of §111.105(e), and that further restrictions are unnecessary.

TTARA requested that we amend §1.15(b) by deleting the sentence, "All factual allegations should be supported by sworn affidavits, certified business records or otherwise admissible evidence." The comptroller declined to make this change. This provision merely advises taxpayers to support their factual allegations with admissible evidence, and does not in any way restrict their rights under SOAH rules or the Texas Rules of Evidence.

TTARA requested that we provide that a continuance could be filed within 7 days of a deadline, if an emergency existed. The comptroller agreed and has amended §1.20(a) accordingly.

TTARA and TAB requested that we amend §1.41 to eliminate possible confusion. The comptroller agrees that the proposed amendment may cause confusion and it will therefore be withdrawn.

The amendments are adopted under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The amendments implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.20. Continuances.

(a) If, prior to the time a contested case is brought under the jurisdiction of SOAH, a taxpayer needs an extension on a deadline he should request a continuance in writing from the assistant general counsel at least seven days prior to the deadline. If an emergency occurs less than seven days prior to the deadline, a motion for continuance may be filed.

(b) The request for continuance must show that there is good cause for the continuance and that the need is not caused by neglect, indifference, or lack of diligence. A copy of the request must be served upon all other parties of record.

(c) If the Tax Division increases the amount of tax deficiency at or before the time of hearing, the taxpayer is entitled to a 30-day continuance to obtain and produce further evidence applicable to the items upon which the increase is based.

(d) After a hearing is set by SOAH, a motion for an extension of filing deadlines must be filed with SOAH in accordance with SOAH's Rules of Practice.

(e) Notwithstanding any other section, if a procedural dispute arises at any time subsequent to the issuance of the Position Letter, at taxpayer's request or on its own motion, the Tax Division shall file a Request to Docket Case form with SOAH. SOAH's Rules of Procedure will apply at that point.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701218

Martin Cherry

General Counsel

Comptroller of Public Accounts

Effective date: April 18, 2007

Proposal publication date: February 2, 2007

For further information, please call: (512) 475-0387



34 TAC §1.8, §1.22

The Comptroller of Public Accounts adopts new §1.8, concerning resolution prior to the issuance of a position letter and new §1.22, concerning oral and written submission hearings, with changes to the proposed text as published in the February 2, 2007, issue of the *Texas Register* (32 TexReg 449).

The new rules are being adopted in order to update and formalize procedures for the resolution of cases prior to the issuance of a Position Letter and to facilitate the transfer of cases to the State Office of Administrative Hearings ("SOAH") for oral and written submission hearings.

We received comments from the Texas Taxpayers and Research Association (TTARA). TTARA requested that a rule be included to detail the comptroller's new proposed mediation process. Clarifying language was added to §1.22 to specify that mediation is available at the taxpayer's option. However, the comptroller determined that it was not necessary in these rules to detail the procedures to be employed by outside mediators.

TTARA requested that we amend §1.1(c) to allow a taxpayer to directly appeal to SOAH. However, since SOAH will only accept requests to docket cases from an agency, clarifying language was added to §1.22(b) to reflect that, upon a taxpayer's request, we will file the request to docket the case with SOAH.

The new sections are adopted under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The new sections implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.8. Resolution Prior to Issuance of a Position Letter.

(a) If the taxpayer's contentions are fully accepted or if the parties agree on a resolution of all contentions, the agency may elect to amend the determination, to issue an amended billing, or agree to a refund or credit request rather than issue a Position Letter.

(b) If the determination or billing is amended, or a refund or credit is issued, the action will become final 20 days after notification. An amended billing or determination is payable 20 days after it becomes final unless otherwise specified. Pursuant to APA, Government Code, §2001.142, notification is presumed to occur on the third day after the date of mailing.

§1.22. Oral and Written Submission Hearings.

(a) It is the agency's policy to encourage resolution and early settlement of all contested matters.

(b) If, after reviewing a taxpayer's Reply to the Tax Division's Position Letter, as well as all other available evidence, and conducting any mediation requested by a taxpayer, the parties are unable to resolve or settle all contested matters, the Tax Division will, at a taxpayer's request or on its own motion, file a Request to Docket Case form with SOAH. Such Request to Docket Case form will be filed promptly following taxpayer's request, but in no case shall it be filed more than 30 days after such request, unless the parties agree otherwise.

(c) At the time the Request to Docket Case form is filed with SOAH, the agency shall file with SOAH a copy of all pleadings served on the agency by the taxpayer and on the taxpayer by the agency, including but not limited to the Statement of Grounds, Position Letter, Reply and Response along with any exhibits or attachments thereto in accordance with the provisions of SOAH Rules of Procedure, §155.9.

(d) If the parties are unable to resolve or settle all contested matters, and resolution requires a hearing, then, except as otherwise noted or required, the taxpayer will be given the option of selecting:

(1) A written submission hearing before a SOAH administrative law judge, or

(2) An oral hearing before a SOAH administrative law judge.

(e) If the taxpayer fails to make a selection, the case will be docketed as a written submission hearing, subject to subsection (f) of this section.

(f) A taxpayer may change the selection of oral or written submission hearing made in subsection (d) of this section, by filing a motion with SOAH. Such a motion would be filed according to SOAH Rules of Procedure.

(g) The Tax Division has the option of requesting an oral hearing in any case in which it has the burden of proof.

(h) All hearings held pursuant to Tax Code, §154.1142 or §155.0592, will be oral hearings.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701215

Martin Cherry

General Counsel

Comptroller of Public Accounts

Effective date: April 18, 2007

Proposal publication date: February 2, 2007

For further information, please call: (512) 475-0387



34 TAC §§1.13, 1.21, 1.34

The Comptroller of Public Accounts adopts the repeals of §1.13, concerning initiation of expedited hearings, §1.21, concerning oral hearings, and §1.34, concerning witness fees, without changes to the proposed text as published in the February 2, 2007, issue of the *Texas Register* (32 TexReg 450).

The repeals are necessary because of the partial transfer of hearings responsibilities to The State Office of Administrative Hearings ("SOAH"). Repeal of these rules will prevent conflict and duplication with the SOAH Rules of Procedure.

No comments were received regarding adoption of the repeal.

The repeals are adopted under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The repeals implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701214

Martin Cherry

General Counsel

Comptroller of Public Accounts

Effective date: April 18, 2007

Proposal publication date: February 2, 2007

For further information, please call: (512) 475-0387



34 TAC §1.31, §1.32

The Comptroller of Public Accounts adopts the repeals of §1.31, concerning computation of time and §1.32, concerning service, without changes to the proposal as published in the February 2, 2007, issue of the *Texas Register* (32 TexReg 450).

Existing §1.31 and §1.32 are being repealed because of the partial transfer of hearings responsibilities to the State Office of Administrative Hearings ("SOAH"). New rules concerning computation of time and service are being proposed to more closely reflect SOAH Rules of Procedure.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The repeals implement Tax Code, §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701216

Martin Cherry

General Counsel

Comptroller of Public Accounts

Effective date: April 18, 2007

Proposal publication date: February 2, 2007

For further information, please call: (512) 475-0387



34 TAC §1.31, §1.32

The Comptroller of Public Accounts adopts new §1.31, concerning computation of time and §1.32, concerning service, without changes to the proposed text as published in the February 2, 2007, issue of the *Texas Register* (32 TexReg 450).

The newly adopted rules will make the computation of time and service provisions consistent with SOAH rules regarding computation of time and service as well as to provide explicit guidelines for service regarding new technologies such as electronic mail.

No comments were received regarding adoption of the new rules.

The new rules are adopted under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The new rules implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 29, 2007.

TRD-200701217

Martin Cherry

General Counsel

Comptroller of Public Accounts

Effective date: April 18, 2007

Proposal publication date: February 2, 2007

For further information, please call: (512) 475-0387



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 151. GENERAL PROVISIONS

37 TAC §151.52

The Texas Board of Criminal Justice adopts an amendment to Title 37, Part 6, Chapter 151, General Provisions, §151.52, Sick Leave Pool without changes to the text as proposed in the December 22, 2006, issue of the *Texas Register* (31 TexReg 10252).

The revision is necessary to accurately identify the name of the Agency.

No comments were received.

The amendment is adopted under Texas Government Code, Chapter 661, Subchapter A.

Cross Reference to Statutes: Texas Government Code, §661.202.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701253

Melinda Bozarth

General Counsel

Texas Department of Criminal Justice

Effective date: April 19, 2007

Proposal publication date: December 22, 2006

For further information, please call: (512) 463-0422



CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.5

The Texas Board of Criminal Justice adopts the repeal of Title 37, Part 6, Chapter 159, concerning Special Programs, §159.5, Continuity of Care System for Offenders with Physical Disabilities, as proposed in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9273).

The purpose of the repeal is to consolidate memoranda of understanding concerning the continuity of care system for offenders with physical disabilities, the elderly, significantly or terminally ill, and mentally retarded.

No comments were received.

The repeal is adopted under Texas Health and Safety Code, §614.015.

Cross Reference to Statutes: Texas Health and Safety Code, §§614.003; 614.007; 614.008; 614.013; and 614.014.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701249

Melinda Bozarth

General Counsel

Texas Department of Criminal Justice

Effective date: April 19, 2007

Proposal publication date: November 10, 2006

For further information, please call: (512) 936-2159



37 TAC §159.7

The Texas Board of Criminal Justice adopts the repeal of Title 37, Part 6, Chapter 159, §159.7, concerning Continuity of Care System for Elderly Offenders, as proposed in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9273).

The purpose of the repeal is to consolidate memoranda of understanding concerning the continuity of care system for offenders

with physical disabilities, the elderly, significantly or terminally ill, and mentally retarded.

No comments were received.

The repeal is adopted under Texas Health and Safety Code, §614.014.

Cross Reference to Statutes: Texas Health and Safety Code, §§614.003; 614.007; 614.008; 614.013; and 614.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701250

Melinda Bozarth

General Counsel

Texas Department of Criminal Justice

Effective date: April 19, 2007

Proposal publication date: November 10, 2006

For further information, please call: (512) 463-0422



37 TAC §159.19

The Texas Board of Criminal Justice (TBCJ) adopts new rule Title 37, Part 6, Chapter 159, Special Programs, §159.19, concerning Continuity of Care and Service Program for Offenders with Physical Disabilities, the Elderly, the Significantly or Terminally Ill and the Mentally Retarded which authorizes the Agency to adopt a memorandum of understanding (MOU) between the Texas Department of Criminal Justice (TDCJ), the Texas Department of Assistive and Rehabilitative Services (DARS), the Texas Department of Aging and Disability Services (DADS) and the Texas Department of State Health Services (DSHS), as proposed in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9274).

The purpose of the rule is to establish a continuity of care and service program for offenders with physical disabilities, the elderly, the significantly or terminally ill and the mentally retarded involved in the criminal justice system.

No comments were received.

The new rule is adopted under Texas Health and Safety Code, §§614.013, 614.014 and 614.015.

Cross Reference to Statutes: Texas Health and Safety Code, §§614.003; 614.007; and 614.008.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701251

Melinda Bozarth

General Counsel

Texas Department of Criminal Justice

Effective date: April 19, 2007

Proposal publication date: November 10, 2006

For further information, please call: (512) 463-0422



37 TAC §159.21

The Texas Board of Criminal Justice (TBCJ) adopts new rule, Title 37, Part 6, Chapter 159, Special Programs, §159.21, concerning Continuity of Care and Service Program for Offenders with Mental Impairments, Elderly, Physically Disabled, Terminally or Significantly Ill, which authorizes the Agency to adopt a memorandum of understanding (MOU) between the Texas Department of Criminal Justice, through the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and the Texas Commission on Jail Standards (TCJS), as proposed in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9274).

The purpose of the rule is to establish a continuity of care and service program for offenders with mental impairments, the elderly, the physically disabled, the terminally ill and the significantly ill.

No comments were received.

The new rule is adopted under Texas Health and Safety Code, §614.016

Cross Reference to Statutes: Texas Health and Safety Code, §§614.013; 614.014; and 614.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 30, 2007.

TRD-200701252

Melinda Bozarth

General Counsel

Texas Department of Criminal Justice

Effective date: April 19, 2007

Proposal publication date: November 10, 2006

For further information, please call: (512) 463-0422

◆ ◆ ◆

REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Racing Commission

Title 16, Part 8

The Texas Racing Commission files this notice of intent to review Chapter 301, Definitions. This review is conducted in accordance with Government Code, §2001.039.

The Commission has conducted a review of the rules in Chapter 301 and has preliminarily determined that the reasons for adopting the chapter continue to exist, with two amendments. These are an amendment to §301.1(b)(46), Odds Board, and an amendment to §301.1(b)(59), Race Meeting. The proposed amendments are published elsewhere in this issue of the *Texas Register*. The Commission proposes to readopt the remainder of Chapter 301 without changes.

All comments or questions regarding this notice of intent to review may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Gloria Giberson, Assistant to the Executive Secretary for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

TRD-200701269
Mark Fenner
General Counsel
Texas Racing Commission
Filed: April 2, 2007



The Texas Racing Commission files this notice of intent to review Chapter 319, Veterinary Practices and Drug Testing. This review is conducted in accordance with Government Code, §2001.039.

The Commission has conducted a review of the rules in Chapter 319 and has preliminarily determined that the reasons for adopting the chapter continue to exist, with amendments to §§319.102, 319.111, 319.202, 319.203, and 319.204. The Commission also proposes new §319.108. The proposed amendments and the new section are published elsewhere in this issue of the *Texas Register*. The Commission proposes to readopt without changes all remaining rules in Chapter 319.

All comments or questions regarding this notice of intent to review may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Gloria Giberson, Assistant to the

Executive Secretary for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

TRD-200701271
Mark Fenner
General Counsel
Texas Racing Commission
Filed: April 2, 2007



Railroad Commission of Texas

Title 16, Part 1

The Railroad Commission of Texas files this notice of intention to review and re-adopt 16 TAC Chapter 14 relating to Regulations for Liquefied Natural Gas, with the exception of §14.2001, relating to LNG Advisory Committee, which is being proposed for repeal in a separate, simultaneous rulemaking. This review is being conducted in accordance with Texas Government Code §2001.039. The agency's reasons for adopting these rules, other than §14.2001, continue to exist.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.html; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments for 30 days after publication in the *Texas Register*. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Kellie Martinec at (512) 475-1295. The status of Commission rulemakings in progress is available at www.rrc.state.tx.us/rules/proposed.html.

Issued in Austin, Texas, on March 29, 2007.

TRD-200701213
Mary Ross McDonald
Managing Director
Railroad Commission of Texas
Filed: March 29, 2007



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 19 TAC §300.3(a)

**TEXAS WORKFORCE COMMISSION
MEMORANDUM OF UNDERSTANDING
NONFINANCIAL AGREEMENT**

		TWC Contract Number	2907NFA006
TITLE Project Reintegration of Offenders (Project RIO)			
Party #1 Information			
Name	Texas Department of Criminal Justice	Contact	Brad Livingston
Mailing Address	PO Box 13084	Contact Title	Executive Director
City/State/Zip	Austin, TX 78778	Telephone Number	(512) 463-9776
Party #2 Information			
Name	Texas Workforce Commission	Contact	Nicole Verver
Mailing Address	101 East 15 th Street	Contact Title	Director, Workforce Policy
City/State/Zip	Austin, TX 78778	Telephone Number	(512) 936-3160
Party #3 Information			
Name	Texas Youth Commission	Contact	Connie Simon
Mailing Address	PO Box 4260	Contact Title	Workforce Development Manager
City/State/Zip	Austin, TX 78765	Telephone Number	(512) 424-6091
Party #4 Information			
Name	Windham School District	Contact	Bob Evans
Mailing Address	PO Box 40	Contact Title	Director, Continuing Education
City/State/Zip	Huntsville, TX 77342	Telephone	(936) 291-5179
Agreement Period			
Begin Date: June 14, 2007		End Date: August 31, 2010	
Purpose			
To provide a delineation of responsibilities related to the administration and operation of Project RIO. This Non-Financial Agreement (Agreement) is developed with the intent to coincide with all contracts, strategic plans, policies, or agreements that affect the structure and scope of the Project RIO program.			
Agreement Approval			
This Agreement is contingent on all Parties' acceptance of and compliance with the terms and conditions of this Agreement and any referenced attachments.			
Each person signing this Agreement on behalf of the Agency and the other Parties hereby warrants that he or she has been fully authorized by his or her organization to:			
<ul style="list-style-type: none"> ▪ execute this agreement on behalf of the organization; and ▪ validly and legally bind the organization to all of the terms, performances, and provisions of this Agreement. 			
Texas Department of Criminal Justice:		Texas Workforce Commission:	
_____ Brad Livingston, Executive Director Texas Department of Criminal Justice		_____ Larry E. Temple, Executive Director Texas Workforce Commission	
Date		Date	
Texas Youth Commission:		Windham School District:	
_____ Ed Owens, Interim Executive Director Texas Youth Commission		_____ Debra Roberts, Superintendent Windham School District	
Date		Date	

**TEXAS WORKFORCE COMMISSION
MEMORANDUM OF UNDERSTANDING
AGREEMENT TERMS AND CONDITIONS**

Table of Contents

General Terms and Conditions
Section 1 - Legal Authority and Parties
Section 2 - Purpose
Section 3 - Performance
Section 4 - Amendment and Termination
Section 5 - Financial
Attachment A: Statement of Work
Attachment B: Confidentiality Agreement

GENERAL TERMS AND CONDITIONS

SECTION 1 - LEGAL AUTHORITY AND PARTIES

This Agreement is undertaken through the authority granted by the Interagency Cooperation Act (Section 771.001, et seq., Texas Government Code).

The Texas Department of Criminal Justice (TDCJ) manages offenders in state prisons, state jails, and private correctional facilities that contract with TDCJ. TDCJ also provides funding and certain oversight of community supervision (previously known as adult probation) and is responsible for the supervision of offenders released from prison on parole or mandatory supervision.

The Texas Workforce Commission (TWC) is responsible for administering an integrated workforce development system, including job training, employment, employment-related educational programs, and the Unemployment Insurance program, under the authority of Section 302.021, Texas Labor Code.

The Texas Youth Commission (TYC) is the state's juvenile corrections agency, providing for the care, custody, rehabilitation, and reestablishment in society of Texas' most chronically delinquent or serious juvenile offenders. Texas judges commit these youths to TYC mostly for felony-level offenses that occurred when the youths were at least age 10 and less than age 17. TYC can maintain jurisdiction over these offenders until their twenty-first birthdays.

The Windham School District's (WSD) mission is to provide appropriate educational programming and services to meet the needs of the eligible offender population in TDCJ and reduce recidivism by assisting offenders in becoming responsible, productive members of their communities.

SECTION 2 - PURPOSE

This Agreement sets forth the responsibilities and obligations of the signatory agencies with respect to the provision of Project RIO services. This Agreement is intended to address the requirements of Sections 306.004 and 306.005 of the Labor Code and Section 501.095 of the Government Code.

SECTION 3 - PERFORMANCE

All Parties agree to the provisions, performance, and commitments established within Attachment A - Statement of Work. Such performance shall be provided in compliance with:

- all applicable federal and state laws, regulations, and rules;
- all agency policies and procedures or guidance manuals incorporated within this Agreement herein by specific reference in Attachment A; and
- the terms and conditions of this Agreement.

All Parties agree that Confidentiality Agreements, as shown in Attachment B, will be executed as referenced in Section II (O) of Attachment A.

SECTION 4 - AMENDMENT AND TERMINATION

- 4.1 This Agreement, notwithstanding Interagency Cooperation Contract, TWC #2907RIO000/TDCJ #69-6WS-7-7-A0128 and the local operating agreements referenced in Section V.B of Attachment A, is the entire agreement between the Parties, relating to the purpose stated in Section 2 of this Agreement. All oral or written agreements between the Parties hereto relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained herein.
- 4.2 Any alterations, additions, or deletions to the terms of this Agreement required by changes in federal or state law or by regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.
- 4.3 After a period of no less than 30 days subsequent to written notice (unless more rapid implementation is required by law), such formal directives shall have the effect of qualifying the terms of this Agreement and shall be binding upon all Parties as if written herein.
- 4.4 Except as specifically provided by Subsections 4.1, 4.2, and 4.3 of this Agreement, any additions, alterations, deletions, or extensions to the terms of this Agreement shall be by amendment hereto in writing and executed by all Parties to this Agreement. Any other attempted changes, including oral modifications, written notices that have not been signed by both Parties, or other modifications of any type, shall be invalid.

- 4.5 If at any time either Party is unable to perform its functions under this Agreement consistent with such Party's statutory and regulatory mandates, the affected Party shall immediately provide written notice to the other Parties to establish a date for resolution of issues.
- 4.6 The activities conducted pursuant to this Agreement shall be reviewed on a bi-annual basis and the Agreement adjusted as may be deemed appropriate by all signatories.
- 4.7 This Agreement may be terminated by 30 days written notice by any Party to all other Parties.

SECTION 5 - FINANCIAL

The Parties to this Agreement assume full responsibility for their respective costs associated with their performance of the terms of this Agreement. No property or other legal rights shall accrue or otherwise develop by virtue of the Parties entering into this Agreement.

ATTACHMENT A
STATEMENT OF WORK

I. TDCJ agrees to further the goals of Project RIO by:

A. TDCJ, Parole Division, shall:

1. administratively support the provision of Project RIO services through the Specialized Services section of the Parole Division, where policies and procedures supportive of the provision of Project RIO services shall be maintained;
2. assign Project RIO coordinators in each District Parole Office to act as points of contact for Texas Workforce Centers;
3. refer to Texas Workforce Centers all unemployed or underemployed parolees who are available for work, able to work, willing to seek employment, free of symptomatic evidence of substance abuse, free of outstanding warrants, and not in pre-revocation status.
4. monitor the participation of referred parolees to ensure that full use of available services is made;
5. provide parolee-specific information such as TDCJ commitment histories and employment restrictions to Texas Workforce Centers. Such efforts shall include data connectivity and elements stipulated in Section 306.008 of the Texas Labor Code;
6. distribute offender employment documents secured during incarceration by TDCJ-Criminal Institutions Division (CID) and the WSD where the point of release is the Gatesville or Huntsville Unit;
7. maintain and administer security agreements related to TDCJ access and use of The Workforce Information System of Texas (TWIST) and WorkInTexas.com; and
8. assist with the process for documenting and reporting if an ex-offender is placed in a job related to TDCJ training and employment retention.

B. TDCJ, Community Justice Assistance Division, shall:

1. encourage the referral of qualified offenders on community supervision to Project RIO, and ensure that those persons actively participate and fully avail themselves of the services available; and
2. educate local community supervision and corrections departments (CSCD) concerning the existence, eligibility criteria, and benefits of Project RIO services.

C. TDCJ, Manufacturing and Logistics (M&L) Division, shall:

1. provide a work program designed to provide offenders with marketable skills and work ethic. This undertaking will help reduce recidivism through a coordinated program of:

- a. job skills training – Vocational completers of the WSD and/or local community colleges will be placed in M&L jobs as applicable to gain work experience in their trade of training. Offenders meeting program requirements shall also be enrolled in the Work Against Recidivism (WAR) program. Job skills training and related work experience shall be provided to all M&L program participants; and
 - b. documentation of work history – A WAR employment sheet shall be completed for each WAR program participant upon release to document job skills training, work history, and performance evaluation of the offender.
2. convey to TWC's TWIST automated system a data set reflecting participation in M&L and WAR services provided and other elements stipulated in Section 306.008 of the Texas Labor Code.

II. TWC agrees to further the goals of Project RIO by:

- A. administratively supporting the provision of Project RIO service provision through TWC's Workforce Development Division and developing and maintaining policies governing service provision in Title 40, Texas Administrative Code, Chapter 847;
- B. allocating available Project RIO resources to Local Workforce Development Boards (Boards) to support the provision of services to ex-offenders and adjudicated youth through Texas Workforce Centers;
- C. supporting Texas Workforce Centers designed to provide employment and training services to ex-offenders and adjudicated youth who are:
 - 1. adults who were sentenced to a TDCJ correctional facility and are:
 - a. within one year after their release from incarceration; or
 - b. currently under parole supervision by TDCJ, or within one year of completion of their term of supervision
 - 2. adjudicated youth ages 16 through 21 who were formerly confined in a TYC correctional facility.
- D. encouraging Boards to prioritize the referral of Project RIO customers to employment related to their skills, training, and/or experience acquired while incarcerated;
- E. maintaining a system for continuance of services where a Project RIO customer has a need for post-employment support or where employment is secured in a job unrelated to training received during incarceration and/or the goals established in the Individual Employment Plan (IEP);
- F. providing oversight, technical assistance, and support to Boards in furtherance of services to the eligible ex-offender and adjudicated youth populations;

- G. maintaining previously established linkages and establishing new linkages with local service providers and resources, including faith based and community organizations;
- H. providing training support to TDCJ, TYC, Boards, Texas Workforce Center personnel, and designated CSCD staff at designated local sites;
- I. annually gathering and documenting follow-up information on a designated sample of participants in Project RIO;
- J. coordinating joint efforts with staff from the various agencies in educating the public as to the goals, progress, and results of Project RIO;
- K. coordinating and participating in the promotion of eligible ex-offenders' use of Project RIO;
- L. providing reports and/or data access available through TWIST and WorkInTexas.com to TDCJ, TYC, and WSD reflecting the status of program participants and completers;
- M. providing TDCJ and TYC staff and offenders with current information regarding the locations and services offered in Texas Workforce Centers;
- N. assisting with the process for documenting and reporting if an ex-offender is placed in a job related to TDCJ or TYC training and employment retention;
- O. ensuring that any information received from TYC regarding current or former TYC youth will be protected as confidential under Section 58.005 of the Texas Family Code. In furtherance of this assurance, TWC will require that all Texas Workforce Center staff accessing TYC information execute a Confidentiality Agreement. A copy of the Confidentiality Agreement is included as Attachment B to this Agreement; and
- P. maintaining security agreements related to the release of criminal histories generated from the Criminal Justice Information System.

III. TYC shall further the goals of Project RIO by:

- A. organizing and administering prerelease Project RIO services within the Education Department of the TYC's Rehabilitation Division. Policies and procedures for prerelease Project RIO services shall be established and maintained within TYC's Education Department. Project RIO staff located in secure facilities will be under the direct daily supervision of the TYC campus principals. Program Supervision is provided by TYC Central Office Workforce Development Programs staff.
- B. stationing Project RIO staff in TYC-secure facilities, to the extent that resources permit, for the purpose of providing prerelease Project RIO services to adjudicated youth designed to equip them with the knowledge, skills, and attitudes necessary to successfully reintegrate into society and the labor market;
- C. providing prerelease Project RIO services to adjudicated youth, ages 16-21, with appropriate security status, who elect to participate.

- D. providing a TYC Project RIO institutional component concerned with the provision of reentry services to adjudicated youth. Service provision generally will be focused on the last six months of confinement and will include:
1. outreach, recruitment, and orientation of adjudicated youth;
 2. assessment to determine academic and vocational interests, aptitudes, and needs;
 3. workforce development counseling, career exploration, and the provision of labor market information specific to the adjudicated youths' reentry community;
 4. development of an IEP detailing specific vocational goals and the academic and vocational training, work experience, and reentry elements to achieve goals;
 5. referral to available work assignments or Prison Industry Enhancement (PIE) employment opportunities that further goals established in an adjudicated youth's IEP;
 6. assistance in securing and compiling documents necessary to secure and retain employment to include such items as Texas Department of Public Safety driver license and identification cards, birth certificates, Social Security cards, and academic and vocational training certificates. Documents secured during confinement will be provided by TYC to an adjudicated youth at the point of release;
 7. post-release referral of adjudicated youth who are in need of workforce services by TYC's Community Services Division.
 8. exit interviews with releasing adjudicated youth to finalize reentry plans and ensure awareness and access to post-release Project RIO services;
- E. providing a TYC Project RIO institutional component concerning the provision of academic and vocational assessment, workforce development counseling, and workforce development training services to adjudicated youth while committed to TYC facilities;
- F. providing client-specific information such as offense histories and employment restrictions to Project RIO personnel, in accordance with existing Texas statutes and TYC administrative policies;
- G. compiling and transmitting to TWC a data set reflecting the adjudicated youth's IEP, services provided during confinement, and parole referral information, as established by Section 306.008 of the Texas Labor Code;
- H. promoting the use of post-release Project RIO services by adjudicated youth through orientation and information sessions conducted within the institutional component, as well as parole and transitional placement facilities;
- I. maintaining and administering security agreements related to TYC access and use of TWIST and WorkInTexas.com;
- J. referring by the TYC Parole Division of all unemployed or underemployed adjudicated youth who are under the supervision of the TYC;
- K. monitoring adjudicated youths' Project RIO participation to ensure that full use is made of all of services; and

- L. providing adjudicated youths with information regarding programs and services available through TWC and Texas Workforce Centers including the Work Opportunity Tax Credit and fidelity bonding.

IV. WSD agrees to further the goals of Project RIO by:

- A. organizing and administering prerelease Project RIO services within WSD. Project RIO staff shall be under the direct daily supervision of unit WSD principals. Policies and procedures for prerelease Project RIO services shall be established and maintained within WSD's Continuing Education Division;
- B. stationing Project RIO staff in CID facilities, to the extent that resources permit, for the purpose of providing prerelease Project RIO services to offenders designed to equip them with the knowledge, skills, and attitudes necessary to successfully reintegrate into society and the labor market;
- C. providing Project RIO services to eligible offenders who elect to participate. Eligibility shall be based upon the following criteria:
 - 1. Must have an appropriate offender classification status;
 - 2. Must be willing to participate and work on assigned tasks to relieve barriers to employment, and any requirements listed on the Individual Treatment Plans;
 - 3. Must plan to reside in the state of Texas;
 - 4. Must not have a verified Immigration and Customs Enforcement (ICE) or felony detainer; and
 - 5. Must be within appropriate priority levels as established by Project RIO program guidelines.
- D. providing offenders with timely and appropriate reentry services, including:
 - 1. outreach, recruitment, and orientation of offenders;
 - 2. assessment activities to determine academic and occupational interest and aptitudes and work histories;
 - 3. career exploration counseling and provision of labor market information specific to the offenders' reentry into the community;
 - 4. development of an IEP detailing the specific academic and vocational training, work experience, and reentry elements necessary to achieve the offenders' occupational goals;
 - 5. assisting offenders with completion of a WorkInTexas.com employment application;
 - 6. referral and enrollment into academic, vocational, life skills, and behavioral training opportunities available through WSD and local community colleges and universities;
 - 7. assistance in obtaining and compiling documents necessary to secure and retain employment, including such items as driver licenses, birth certificates, Social Security cards, DD214's, Selective Service, and academic and vocational training certificates;
 - 8. career fairs to familiarize offenders with community resources, employer expectations and, where possible, in-unit employer recruitment;
 - 9. quarterly interviews with participating offenders to case manage progress towards achieving IEP goals;

10. exit interviews with releasing offenders to finalize reentry plans and ensure awareness and access to post-release Project RIO services;
 11. distribution of offenders' employment documents secured during incarceration, where the point of release is other than the Gatesville Unit or Huntsville Unit; and
 12. conveying to TWC's TWIST automated system a data set reflecting prerelease services provided and other elements stipulated in Section 306.008 of the Texas Labor Code.
- E. maintaining and administering security agreements related to WSD access and use of TWIST and WorkInTexas.com; and
- F. providing offenders with information regarding programs and services available through TWC and the Texas Workforce Centers, including the Work Opportunity Tax Credit and Fidelity Bonding.

V. The Parties mutually agree to:

- A. jointly pursue the goals, strategies, and action steps specified in the Project RIO Strategic Plan; and
- B. facilitate the development of local operating agreements with Boards to implement this agreement.

ATTACHMENT B

**CONFIDENTIALITY AGREEMENT RELATING TO RELEASE
OF INFORMATION UNDER SECTION 58.005, TEXAS FAMILY CODE**

STATE OF TEXAS) (
) (
COUNTY OF _____) (
_____) (

AFFIDAVIT

Before me, the undersigned authority, personally appeared _____
known to me to be the person whose name is subscribed to the following instrument, and having been by me
first duly sworn, upon his or her oath deposes and stated the following:

My name is _____. I am over the age of 18 and a resident of
_____ County, Texas. I am employed at _____ my position
_____.

I request that the following confidential information to be released to me by the Texas Youth Commission
(TYC) pursuant to Texas Family Code Section 58.005(a)(5):

- Adjudication History
- Texas Youth Commission Records/Information related to Vocational and Educational Services
- Parole information relevant to securing employment and/or continuance of education

I certify that the requested information is to be used for treatment or services to TYC youth only.

I understand that the above-referenced information is confidential and that release of this information to me
does not serve to waive or affect the confidentiality of the information for purposes of state or federal law or
waive the right to assert exceptions to required disclosure of the information in the future.

The requested information may not be disclosed outside the requesting entity or within the requesting entity for
purposes other than the purpose for which it was received. The information shall be marked
"CONFIDENTIAL" and kept in a secure place.

Any copies of the information or any notes taken from the information that implicate the confidential nature of
the information will be controlled, with all copies or notes that are not destroyed or returned to TYC remaining
confidential and subject to the confidentiality agreement.

Signature of Affiant

SWORN TO AND SUBSCRIBED before me on _____, 20 _____.

Notary Public, State of Texas

My Commission Expires: _____

Figure: 22 TAC §75.7(a)

Board of Chiropractic Examiners
Schedule of Fees

	Fee Description	Board Fee	Professional Fee (78 th Leg)	Texas Online	Patient Protection	Total Fee
1.	DC Initial Application (includes \$50 transcript verification)	\$185.00	\$200.00	\$0.00	\$0.00	\$385.00
2.	DC Jurisprudence Examination (Repeat Exam)	135.00	200.00	0.00	0.00	335.00
3.	DC Initial License – Prorated	125.00	0.00	0.00	5.00	130.00
4.	DC License Renewal – On Time	135.00	200.00	5.00	1.00	341.00
5.	DC License Renewal – Late under 90 days	202.50	200.00	5.00	1.00	408.50
6.	DC License Renewal – Late 90 days to 1 year	270.00	200.00	5.00	1.00	476.00
7.	DC License Renewal – Late up to 3 Years for Good Cause	Calculated	Calculated	0.00	0.00	Calculated
8.	DC License Reinstatement – Out of State	135.00	200.00	0.00	0.00	335.00
9.	DC License – Put on Inactive Status	None	None	None	None	None
10.	DC License – Reactivate from Inactive Status	135.00	200.00	0.00	0.00	335.00
11.	DC License – Duplicate Copy (Replacement)	25.00	0.00	0.00	0.00	25.00
12.	DC Annual Certificate – Duplicate Copy (Replacement)	10.00	0.00	0.00	0.00	10.00
13.	Facility License – Initial Registration	65.00	0.00	0.00	5.00	70.00
14.	Facility License Renewal – On Time	65.00	0.00	2.00	1.00	68.00
15.	Facility License Renewal – Late under 90 days	115.00	0.00	2.00	1.00	118.00
16.	Facility License Renewal – Late 90 days to one year	165.00	0.00	2.00	1.00	168.00
17.	Facility License – Duplicate Copy (Replacement)	25.00	0.00	0.00	0.00	25.00
18.	Radiologic Technician Initial Registration	35.00	0.00	0.00	0.00	35.00
19.	Radiologic Technician Annual Renewal	35.00	0.00	0.00	1.00	36.00
20.	Continuing Education Course Approval Fee (annual)	25.00	0.00	0.00	0.00	25.00
21.	TBCE Online Jurisprudence CE Course	55.00	0.00	0.00	0.00	55.00
22.	Certification of DC license (to another state board)	25.00	0.00	0.00	0.00	25.00
23.	Verification of DC license (not certification letter)+ postage	2.00	0.00	0.00	0.00	2.00
24.	Verification of Educational Courses/Grades	50.00	0.00	0.00	0.00	50.00
25.	Printed copy of Statutes and Rules	10.00	0.00	0.00	0.00	10.00
26.	Returned Check Fee	25.00	0.00	0.00	0.00	25.00

Figure: 30 TAC §30.28(x)(6)

Type of Training	Fee Amount
Association Meetings - training sessions up to (2) two hours (over two hours, see conferences)	\$10 per training credit hour
Association Meetings - annual review for single chapter, section, or district with 12 or less meetings per year	\$100 per annual review application
Association Meetings - annual review for multiple chapters, sections, or districts with 12 or less meetings per year for each	\$400 per annual review application
Conferences	\$10 per training credit hour or \$50 minimum
Classroom Training - using existing approved manuals.	\$10 per training credit hour or a minimum of \$50
Classroom Training with new manuals and new materials	\$25 per training credit hour or a minimum of \$100
Technology-Based (On-line, CD-ROM)	\$25 per training credit hour or a minimum of \$100
Correspondence Courses	\$25 per training credit hour or a minimum of \$100

Figure: 30 TAC §30.210

License	Education	Work Experience	Training Credits
Class C	None	None**	C MSW Course
Class B	HSD or equivalent *	2 years	B MSW Course
	No HSD or equivalent *	4 years **	C MSW Course
Class A	HSD or equivalent	4 years	A MSW Course
	No HSD or equivalent	6 years **	B MSW Course C MSW Course
*HSD or equivalent may be substituted by completing an additional 20 hours of MSW training.			
**An individual who applies for a Class C, B, or A license, and relies on college credit hours as a substitute for meeting the experience requirements, must have those hours in chemistry, biology, engineering, soil science, geosciences, environmental science, or other similar discipline approved by the executive director.			
<p>Class B - College credit hours obtained from an accredited institution may be substituted for experience on the basis of 32 hours of credit for one year of experience, up to a maximum of one year.</p> <p>Class A - College credit hours obtained from an accredited institution may be substituted for experience on the basis of 32 hours of credit for one year of experience, up to a maximum of two years.</p>			

Figure: 30 TAC §30.213(a)

Type of MSW Facility	Level of License Required
Type I landfill facilities	Class A
Type IX landfill mining facilities	Class A
Type IV landfill	Class B
Type V storage and processing facilities not otherwise specified	Class B
Type IX energy or material recovery facilities (other)	Class B
Permitted compost facilities	Class B
Type VI demonstration facilities	Class C
Type VII land application facilities	Class C
Type VIII used or scrap tire facilities	Class C
Registered compost facilities	Class C
Type IAE landfill facilities	Class C

Figure: 30 TAC §30.270(2)

License	Education	Minimum Work Experience	Approved Training
Class 1	None	None	None
Class 2	Less than High School Diploma or GED	3 years	Basic Course
Class 2	High School Diploma or GED	2 years	Basic Course
Class 2	1 year College	1 year	Basic Course
Class 3	High School Diploma or GED	3 years	Basic and Advanced Courses
Class 3	2 years College	2 years	Basic and Advanced Courses
Class 3	College Degree	1 year	Basic and Advanced Courses

Figure: 30 TAC §30.340(g)

License	Required Courses	Elective Courses
Class D	Basic Wastewater Operation	None
Class C	Basic Wastewater Operation Activated Sludge or Wastewater Treatment plus one elective course	Wastewater Collection Wastewater Laboratory Water Utility Calculations Water Utility Safety
Class B	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations Water Utility Management
Class A	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Management Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations Wastewater Technology Advanced Management
Class I	Wastewater Collection	None
Class II	Basic Wastewater Operation Wastewater Collection plus one elective course	Water Utility Safety Pump and Motor Maintenance
Class III	Basic Wastewater Operation Wastewater Collection Water Utility Safety Pump and Motor Maintenance plus one elective course	Intermediate Wastewater Laboratory Water Utility Management Water Utility Calculations Pre-treatment Facility Inspection

Figure: 30 TAC §30.355(c)

Number of Facilities Served	Fee
0 - 4	\$122
5 - 9	\$240
10 - 19	\$399
20 or more	\$636

Figure: 30 TAC §30.390(a)

License	Education	Work Experience	Training Credits
Class D	High School Diploma (HSD) or equivalent	None	20 hours
Class C, Distribution, Groundwater, Surface water	HSD or equivalent	2 years	60 hours
Class B, Distribution and Groundwater	Bachelors HSD or equivalent	2½ years 5 years	100 hours 100 hours
Class B, Surface water	Bachelors HSD or equivalent	2½ years 5 years	124 hours 124 hours
Class A	Masters Bachelors HSD or equivalent	4 years 5 years 8 years	164 hours 164 hours 164 hours

Figure: 30 TAC §30.390(f)

License	Core Training Courses	Elective Training Courses
Class D	Basic Waterworks Operation	None
Class C Surface Water	Basic Waterworks Operation Surface Water Production I Surface Water Production II	None
Class C Groundwater	Basic Waterworks Operation Groundwater Production Plus one elective course	Water Distribution Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class C Water Distribution	Basic Waterworks Operation Water Distribution Plus one elective course	Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance.
Class B Surface Water	Surface Water Production I Surface Water Production II Water Distribution Water Utility Safety Water Laboratory Water Utility Management	None
Class B Groundwater	Groundwater Production Water Laboratory Water Distribution Water Utility Safety Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class B Water Distribution	Water Distribution Water Utility Safety Pump and Motor Maintenance Valve and Hydrant Maintenance Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Water Laboratory
Class A	Surface Water Production I Surface Water Production II Groundwater Production Water Distribution Water Laboratory Water Utility Management Water Utility Safety	Plus additional training to meet the 164 hour requirement

Figure: 30 TAC §30.400(c)

Number of Public Water Systems Served	Fee
0 to 4	\$122
5 to 9	\$240
10 to 19	\$399
20 or more	\$636

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Department of Aging and Disability Services

Notice of Public Hearing

The Department of Aging and Disability Services (DADS) is in the process of preparing the agency's State Plan on Aging for submission to the Administration on Aging for state Fiscal Years 2008 - 2010. DADS will hold a public hearing to gather testimony regarding items to be included in the plan. Subjects currently covered by the plan include:

- (1) Family caregiver support,
- (2) Aging and Disability Resource Centers,
- (3) Employment,
- (4) Financial preparedness and financial literacy,
- (5) Emergency preparedness,
- (6) Elder abuse and elder justice,
- (7) Transportation for older persons,
- (8) Choices for Independence for older persons,
- (9) Housing,
- (10) Geriatric medical care, and
- (11) Community supports for older persons.

The hearing will be held at 10:00 a.m. on April 27, 2007, at the Brown-Heatly Building, 4900 N Lamar, Room 1420, Austin, Travis County, Texas 78751.

Questions and requests for additional information may be directed to LaCrecia Stevens, Department of Aging and Disability Services, P.O. Box 149030, M.C. W235, Austin, Texas 78714, (512) 438-5634, LaCrecia.Stevens@dads.state.tx.us.

Persons who are unable to attend the hearing may submit their views in writing by 5:00 p.m. April 27, 2007. Persons requiring an interpreter for the deaf or hearing impaired should contact LaCrecia Stevens, at least 72 hours prior to the hearing at (512) 438-5634 or TDD (512) 424-3250.

TRD-200701288
Kenneth L. Owens
General Counsel
Department of Aging and Disability Services
Filed: April 4, 2007

Texas Building and Procurement Commission

Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Assistive and Rehabilitative Services (DARS), announces the issuance of Request for Proposals (RFP) #303-7-11451. TBPC seeks a five (5) year lease of approximately 4,711 square feet of office space in San Antonio, Bexar County, Texas.

The deadline for questions is April 16, 2007 and the deadline for proposals is April 27, 2007 at 3:00 p.m. The award date is May 15, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=69911.

TRD-200701247
Ingrid K. Hansen
General Counsel
Texas Building and Procurement Commission
Filed: March 30, 2007

Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Parks and Wildlife Department (TPWD), announces the issuance of Request for Proposals (RFP) #303-7-11459. TBPC seeks a five (5) year lease of approximately 13,625 square feet of office/shop/secured fenced yard area space in San Marcos, Hays County, Texas.

The deadline for questions is April 9, 2007 and the deadline for proposals is April 20, 2007 at 3:00 p.m. The award date is May 1, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=69912.

TRD-200701248
Ingrid K. Hansen
General Counsel
Texas Building and Procurement Commission
Filed: March 30, 2007

Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions

affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of March 23, 2007, through March 29, 2007. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. The notice was published on the web site on April 4, 2007. The public comment period for these projects will close at 5:00 p.m. on May 4, 2007.

FEDERAL AGENCY ACTIONS:

Applicant: Sabco Operating Company; Location: The project is located in Corpus Christi Bay, in State Tract (ST) 49, approximately 6 miles southeast of downtown Corpus Christi, in Nueces County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Portland, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 668938; Northing: 3071562. Project Description: The applicant proposes to retain and add on to an existing production platform in ST 49. The existing platform was constructed in the 1960's by another company and the structure measures 32 feet in width by 105 feet in length. The applicant proposes to construct an additional pile supported platform for additional equipment which would be located adjacent to the existing platform. The proposed structure would be 45 feet wide by 60 feet long, and connect to the existing structure by a 4-foot-long walkway. Water depth at the proposed project site is approximately -20 feet mean low water. CCC Project No.: 07-0143-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-209 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403).

Applicant: Helix Energy Solutions; Location: The project is located on the east side of the La Quinta Channel between Oxy-Chemical and Kiewitt Offshore Services, Ltd., in Ingleside, San Patricio County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Port Ingleside, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 673250; Northing: 3083500. Project Description: The applicant proposes to construct a pipe fabrication and load-out facility. The work would require hydraulic dredging of a 400-foot by 300-foot portion (8.1 acres) of a 1,100- by 300-foot vessel slip and its approach area (11.0 acres) to a depth of -30 feet MLT, and an additional 2 feet of over dredge for maintenance. Two ditches would be constructed along the northern and southern property boundaries to provide stormwater drainage from uplands and outfall into the bay. The northern drainage ditch would extend through the proposed slope protection for the shoreline, through coastal sand flats, and outfall approximately 100 feet waterward of the toe of the slope. A total of 555,467 cubic yards of material would be excavated to construct the facility and approximately 339,467 cubic yards of this material would be removed from waters of the United States. All excavated material would be placed into a bermed disposal area located on a 45-acre upland immediately adjacent to the project site. Steel sheet pile would be used to bulkhead the vessel slip area. Slope protection would be placed around the perimeter of the sheet pile at its base and extend 20 feet outward. Approximately 18,400 cubic yards of optional slope protection may be placed into jurisdictional waters on the northern and southern slopes of the vessel slip approach and would extend 300 feet from the steel sheet-pile bulkhead towards La Quinta Channel. Approximately 2.6 acres of jurisdictional waters of the U.S. would be permanently filled to install the slope protection. Optional slope protection may also be placed along the existing bluff located both north and south of the steel sheet pile bulkhead. Slope protection would be comprised of

17,200 cubic yards of stone-filled marine mattresses placed for erosion protection and 1,200 cubic yards of backfill material. Approximately 0.05 acre along the southern bluff would be backfilled in order to install the slope protection at this location. Four 15- by 15-foot mooring structures with associated catwalks measuring 3.5 feet by 3.58 feet by 172.5 feet would be placed on opposite sides of the vessel slip approach where it opens into the vessel slip area. The structures would be constructed of steel pipe piles with polyethylene jackets. The project as proposed would permanently impact 2.6 acres of unvegetated coastal sand flat, 0.3 acre of saltmarsh, and 0.8 acre of seagrass. The remaining 4.4 acres that would be impacted are open water, of which, 1.6 acres are shallow water (0-6 feet) habitat. As mitigation for these impacts, the applicant proposes to fund the creation of 5.0 acres of coastal marsh complex offsite. CCC Project No.: 07-0144-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-201 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Robert W. Sanders; Location: The project is located between Stella Street and the Gulf Intracoastal Waterway next to Froggie's Bait Dock at the Public Boat Ramp in Port O'Connor, Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port O'Connor, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 751424; Northing: 3147527. Project Description: The applicant proposes to install 100 linear feet of concrete bulkhead and backfill. Additionally the applicant is proposing to place approximately 135 square feet of proposed fill between the bulkhead and shoreline at one location and excavate approximately 156 square feet of material in another area to square up the bulkhead. The applicant also proposes to construct a 5-foot-wide by 63.5-foot-long pier with 3-foot by 30-foot finger piers to form five boat slips. CCC Project No.: 07-0147-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-250 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Coastal Coordination Council for review.

Further information on the applications listed above may be obtained from Ms. Tammy Brooks, Consistency Review Coordinator, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873, or tammy.brooks@glo.state.tx.us. Comments should be sent to Ms. Brooks at the above address or by fax at (512) 475-0680.

TRD-200701276

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office

Coastal Coordination Council

Filed: April 2, 2007

Concho Valley Workforce Development Board

Request for Qualifications

The Concho Valley Workforce Development Board will be releasing in May 2007 a Request for Proposal (RFP) for Workforce and Child Care Services to include: WIA, TANF/Choices, Project Rio, FS E&T, Wagner Peyser, TAA, direct child care, and quality initiatives for a contract scheduled to begin October 1, 2007. The proposals will be due mid-June.

We are seeking an individual to write the scoring instrument to be used based on the RFP (with board approval), evaluate and score whatever proposals received, as well as conduct a pre-award survey to include program and financial performance and assist with contract negotiations. We would like to know if you are interested in providing all of these services, with provisions as follows:

- a. The individual evaluation contractor must provide a minimum of three evaluators qualified by education and/or experience to independently review and score contract proposals to provide workforce and child care services for the Concho Valley.
- b. The individual evaluation contractor must be able to assemble his or her evaluation team here in San Angelo in July to discuss proposals, finalize the scoring, and brief the board staff.
- c. The individual evaluation contractor should respond with four individual quotes: (1) a quotation for total cost per RFP, to include any salaries, travel expenses, lodging, meals, and incidental expenses to be incurred. (We need only the total cost of the service per RFP, not a per-item breakdown), (2) a quotation for writing the scoring instrument; (3) a quotation for the pre-award survey, and (4) a quotation for the contract negotiations.

We will furnish sufficient copies of the RFP to the individual evaluation contractor at the same time it is released to the public to allow the evaluation team to become familiar with the proposal requirements and begin the process of writing the scoring instrument.

Once the proposals are determined to be responsive, the copies will be mailed to the evaluation team so that scoring may begin.

Selection of the individual evaluation contractor will be based upon professional experience. Interested parties should submit a resume with a letter of application and quotes to:

Concho Valley Workforce Development Board

ATTENTION: REQUEST FOR QUALIFICATIONS (WF/CC)

36 E. Twohig, Ste 805

San Angelo, TX 76903

Telephone: (325) 655-2005

Please respond by 5:00 p.m. CDST, April 30, 2007.

TRD-200701205

Johnny Griffin

Executive Director

Concho Valley Workforce Development Board

Filed: March 28, 2007

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/09/07 - 04/15/07 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/09/07 - 04/15/07 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

TRD-200701280

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: April 3, 2007

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 14, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 14, 2007**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Affiliated Crown Developments, LTD.; DOCKET NUMBER: 2007-0215-WR-E; IDENTIFIER: RN101971125; LOCATION: Montgomery County, Texas; TYPE OF FACILITY: subdivision; RULE VIOLATED: 30 Texas Administrative Code (TAC) §297.11 and the Code, §11.121, by failing to obtain rights to divert, store, impound, take or use water at the site from an unnamed tributary; PENALTY: \$2,235; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: City of Bonham; DOCKET NUMBER: 2006-1044-MWD-E; IDENTIFIER: RN101919850; LOCATION: Bonham, Fannin County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number 10070001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a)(1), by failing to comply with its permitted effluent limits; PENALTY: \$3,925; ENFORCEMENT COORDINATOR: Pamela Campbell, (512) 239-4493; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: C&R Water Supply Inc.; DOCKET NUMBER: 2007-0035-MWD-E; IDENTIFIER: RN102341377; LOCATION:

Montgomery County, Texas; TYPE OF FACILITY: wastewater treatment system; RULE VIOLATED: 30 TAC §305.125(1) and (17), TPDES Permit Number 13766001, Final Effluent Limitations and Monitoring Requirements Numbers 1 and 6, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations and by failing to timely submit self-reported discharge monitoring results; PENALTY: \$16,896; ENFORCEMENT COORDINATOR: Lynley Doyen, (512) 239-1364; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4) COMPANY: Capital City-Bee Caves, Ltd.; DOCKET NUMBER: 2006-2065-EAQ-E; IDENTIFIER: RN105079842; LOCATION: Travis County, Texas; TYPE OF FACILITY: construction; RULE VIOLATED: 30 TAC §213.23(a)(1), by failing to obtain approval of an Edwards Aquifer Contributing Zone Plan; PENALTY: \$31,500; ENFORCEMENT COORDINATOR: Cari-Michel LaCaille, (512) 239-1387; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(5) COMPANY: City of Cleveland; DOCKET NUMBER: 2007-0036-MWD-E; IDENTIFIER: RN101613735; LOCATION: Liberty County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1) and (17), TPDES Permit Number 10766002, Effluent Limitations and Monitoring Requirements Number 1 and Sludge Provisions, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations for ammonia nitrogen and by failing to submit the annual sludge report; PENALTY: \$5,200; Supplemental Environmental Project offset amount of \$4,160 applied to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Wastewater Treatment Assistance; ENFORCEMENT COORDINATOR: Lynley Doyen, (512) 239-1364; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: City of College Station; DOCKET NUMBER: 2006-2189-MWD-E; IDENTIFIER: RN101608362; LOCATION: Brazos County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010024006, Permit Conditions Number 2.g., and the Code, §26.121(a)(1), by failing to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state; PENALTY: \$4,700; Supplemental Environmental Project offset amount of \$3,760 applied to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Wastewater Treatment Assistance; ENFORCEMENT COORDINATOR: Merrilee Hupp, (512) 239-4490; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: Delta Brands, Inc.; DOCKET NUMBER: 2007-0024-AIR-E; IDENTIFIER: RN100543313; LOCATION: Irving, Dallas County, Texas; TYPE OF FACILITY: manufacturing plant for flat rolled metal processing machines and other manufacturing equipment; RULE VIOLATED: 30 TAC §116.110(a) and Texas Health & Safety Code (THSC), §382.085(b) and §382.0518(a), by failing to obtain permits or to satisfy the conditions of a permit by rule prior to operating an outdoor sandblasting facility and prior to performing surface coating activities; PENALTY: \$8,400; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Farmers Milling Company of Graham, Inc.; DOCKET NUMBER: 2006-2061-AIR-E; IDENTIFIER: RN102208196; LOCATION: Graham, Young County, Texas; TYPE OF FACILITY: grain and feed mill; RULE VIOLATED: 30 TAC §116.110(a)(1) and THSC, §382.085(b) and §382.0518(a), by failing to renew Air Permit Number 3550 and continued to operate after the permit expired; PENALTY: \$16,000; ENFORCEMENT COORDINATOR: Miriam Hall, (512)

239-1044; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(9) COMPANY: Flint Hills Resources, LP; DOCKET NUMBER: 2007-0029-AIR-E; IDENTIFIER: RN100235266; LOCATION: Corpus Christi, Nueces County, Texas; TYPE OF FACILITY: crude oil refinery; RULE VIOLATED: 30 TAC §101.20(3) and §116.715(a), Permit Number 8803A/PSD-TX-413M8, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$3,425; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(10) COMPANY: Ahmad B. Goushey; DOCKET NUMBER: 2006-1958-PST-E; IDENTIFIER: RN102224888; LOCATION: McKinney, Collin County, Texas; TYPE OF FACILITY: property with underground storage tanks; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to ensure that all underground storage tanks (USTs) are monitored in a manner which will detect a release; 30 TAC §334.50(b)(2) and the Code, §26.3475(a), by failing to provide proper release detection; 30 TAC §334.50(b)(2)(A)(i)(III) and the Code, §26.3475(a), by failing to test the line leak detectors; 30 TAC §334.49(c)(2)(C) and the Code, §26.3475(d), by failing to inspect the impressed current cathodic protection system; 30 TAC §334.49(c)(4) and the Code, §26.3475(d), by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection; 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance; 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs; 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; and 30 TAC §115.242(3) and THSC, §382.085(b), by failing to maintain the Stage II vapor recovery system; PENALTY: \$15,000; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: Hidalgo County; DOCKET NUMBER: 2006-1682-MSW-E; IDENTIFIER: RN102003597; LOCATION: Penāitas, Hidalgo County, Texas; TYPE OF FACILITY: municipal solid waste landfill; RULE VIOLATED: 30 TAC §330.121(a) and Permit Number 1727AE Section 1.15 (Addendum to SOP-April 2004), by failing to control windblown waste; 30 TAC §330.121(a) and Permit Number 1727AE Sections 1.12 (Addendum to SOP-April 2004) and 1.13 (Tire Storage and Processing Facility Operating Plan 3.0), by failing to prevent the improper stacking of tires and process brush from the landfill's brush pile; 30 TAC §330.133(b), by failing to prevent the disposal of waste in an unauthorized area; 30 TAC §330.131 and Permit Number 1717AE Section 1.3, by failing to provide adequate access control; 30 TAC §330.143(a) and (b)(2), by failing to provide site boundary markers; 30 TAC §330.121(a) and Permit Number 1727AE Section 1.8.1, by failing to confine the unloading of solid waste to as small an area as practical; 30 TAC §330.153(a) and (b) and Permit Number 1727AE Section 1.6, by failing to provide all-weather roads within the facility and provide a water source and necessary equipment or other means of dust control; 30 TAC §330.129, by failing to maintain a source of earthen material to extinguish fires and sized to cover any waste received for disposal not covered with six inches of earthen material; 30 TAC §330.165(a) and Permit Number 1727AE Section 1.8.1, by failing to apply six inches of well-compacted earthen material at the end of each operating day; 30 TAC §330.165(g), by failing to maintain and repair the intermediate cover after erosion caused by run-off; 30 TAC §330.167, by failing to prevent the ponding of water in the active portion of the landfill; and 30 TAC §330.121(a) and Permit Number 1727AE Section 2.3.8 (Final Cover Quality Control Plan), by failing to cut back the old infiltration layer in one-foot off-set layers (stair step);

PENALTY: \$12,200; Supplemental Environmental Project (SEP) offset amount of \$12,200 applied to The Rensselaerville Institute - "Self-Help Rio Grande"; ENFORCEMENT COORDINATOR: Dana Shuler, (512) 239-2505; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(12) COMPANY: Hi Five Auto Care, Inc.; DOCKET NUMBER: 2006-1938-PST-E; IDENTIFIER: RN102453685; LOCATION: Richardson, Dallas County, Texas; TYPE OF FACILITY: oil changing; RULE VIOLATED: 30 TAC §334.50(b)(2) and the Code, §26.3475(a), by failing to conduct proper release detection; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Patricia Chawla, (512) 239-0739; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: City of Junction; DOCKET NUMBER: 2006-1802-MWD-E; IDENTIFIER: RN101920288; LOCATION: Junction, Kimble County, Texas; TYPE OF FACILITY: lift station; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10199001, Permit Conditions Number 2.g., and the Code, §26.121(a), by failing to prevent an unauthorized discharge of approximately 1,000 gallons of raw sewage; and 30 TAC §317.3(e)(5), by failing to provide an operational audiovisual alarm at the lift station; PENALTY: \$11,550; Supplemental Environmental Project (SEP) offset amount of \$9,240 applied to hold two citywide collection events in which citizens may bring in tires, electronics, household hazardous waste, and large municipal solid waste for disposal; ENFORCEMENT COORDINATOR: Amy Martin, (512) 239-2540; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (915) 655-9479.

(14) COMPANY: City of Killeen; DOCKET NUMBER: 2006-1756-WQ-E; IDENTIFIER: RN103174306; LOCATION: Killeen, Bell County, Texas; TYPE OF FACILITY: wastewater collection system; RULE VIOLATED: the Code, §26.121(a), by failing to prevent the unauthorized discharge of raw wastewater which resulted in a fish kill; and 30 TAC §319.302(b) and (c) and the Code, §26.039(e), by failing to notify the news media of a spill; the Code, §26.039(b), by failing to provide complete noncompliance notification information no later than 24 hours after the spill; PENALTY: \$4,880; Supplemental Environmental Project (SEP) offset amount of \$4,880 applied to one-day city-wide waste collection and recycling event and a waste tire dump clean up event; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(15) COMPANY: KM Liquids Terminals, L.P.; DOCKET NUMBER: 2007-0072-AIR-E; IDENTIFIER: RN100224815; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: petroleum products storage terminal; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 5171, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b), by failing to submit an initial notification for the September 30, 2006 emissions event; PENALTY: \$5,814; ENFORCEMENT COORDINATOR: Rebecca Johnson, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(16) COMPANY: Guillermo Fajardo dba Michael's Scrap Metal No. 2; DOCKET NUMBER: 2006-1966-WQ-E; IDENTIFIER: RN102975315; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: scrap metal recycling; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 CFR §122.26(a), by failing to obtain authorization to discharge storm water associated with industrial activity; PENALTY: \$2,100; ENFORCEMENT COORDINATOR: Heather Brister, (512) 239-1203; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(17) COMPANY: Pasadena Refining System, Inc.; DOCKET NUMBER: 2006-2193-AIR-E; IDENTIFIER: RN100716661; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: petroleum refinery; RULE VIOLATED: 30 TAC §116.115(c), TCEQ Air Permit Number 20246, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b), by failing to submit an initial notification of an emissions event within the 24-hour period; PENALTY: \$20,458; ENFORCEMENT COORDINATOR: Sherronda Martin, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(18) COMPANY: Riata Energy, Inc.; DOCKET NUMBER: 2006-2062-AIR-E; IDENTIFIER: RN104411756; LOCATION: Fort Stockton, Pecos County, Texas; TYPE OF FACILITY: support systems for drilling operations; RULE VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent excessive dust emissions; PENALTY: \$2,675; ENFORCEMENT COORDINATOR: Audra Ruble, (361) 825-3100; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(19) COMPANY: City of Roanoke; DOCKET NUMBER: 2006-2087-PWS-E; IDENTIFIER: RN101202042; LOCATION: Denton County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.45(b)(1)(D)(iii) and (iv) and (f)(4), and THSC, §341.0315(c), by failing to provide an elevated storage capacity of 100 gallons per connection, by failing to provide a service pump capacity of two gallons per minute (gpm) per connection, and by failing to provide a minimum production capacity of 0.6 gpm per connection; PENALTY: \$802; ENFORCEMENT COORDINATOR: Christopher Miller, (512) 239-6580; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Rosebud-Lott Independent School District; DOCKET NUMBER: 2007-0056-PWS-E; IDENTIFIER: RN101194082; LOCATION: Falls County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(f)(2), by failing to provide all public water system operating records at the time of the investigation; 30 TAC §290.42(l), by failing to develop and maintain a plant operations manual; 30 TAC §290.109(c)(1)(A), by failing to collect routine bacteriological monitoring samples; and 30 TAC §290.45(f), by failing to secure a purchase water contract; PENALTY: \$460; ENFORCEMENT COORDINATOR: Amy Martin, (512) 239-2540; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(21) COMPANY: City of Sansom Park; DOCKET NUMBER: 2006-2233-PWS-E; IDENTIFIER: RN101414480; LOCATION: Sansom Park, Tarrant County, Texas; TYPE OF FACILITY: public water system; RULE VIOLATED: 30 TAC §290.46(m), by failing to establish maintenance and housekeeping practices; 30 TAC §290.41(c)(1)(F), by failing to obtain sanitary control easements; and 30 TAC §290.45(b)(1)(D)(i), by failing to provide a well capacity of 0.6 gpm per connection; PENALTY: \$1,890; ENFORCEMENT COORDINATOR: Amy Martin, (512) 239-2540; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(22) COMPANY: Jacob Neycheril dba Singco Food Store; DOCKET NUMBER: 2006-2035-PST-E; IDENTIFIER: RN101812840; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor USTs for releases; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Jason Godeaux, (512) 239-2541; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23) COMPANY: Southern Union Pipeline, Ltd.; DOCKET NUMBER: 2007-0008-AIR-E; IDENTIFIER: RN100215532; LOCATION: Barstow, Ward County, Texas; TYPE OF FACILITY: natural gas treatment; RULE VIOLATED: 30 TAC §122.503(a)(1) and THSC, §382.085(b), by failing to submit a general operating permit revision application following a major change in mode of operation; PENALTY: \$3,050; ENFORCEMENT COORDINATOR: Audra Ruble, (361) 825-3100; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(24) COMPANY: Stephen F. Austin State University; DOCKET NUMBER: 2007-0144-MWD-E; IDENTIFIER: RN102341468; LOCATION: San Augustine County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1) and (17), TPDES Permit Number WQ0013161001, Effluent Limitations and Monitoring Requirements Number 1 and Sludge Provisions, and the Code, §26.121(a), by failing to comply with permitted effluent limitations, by failing to timely submit specific parameter data, and by failing to timely submit the annual sludge report; PENALTY: \$2,380; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(25) COMPANY: The Park at Hardy Oak Homeowners Association, Inc.; DOCKET NUMBER: 2007-0042-EAQ-E; IDENTIFIER: RN104953203; LOCATION: San Antonio, Bexar County, Texas; TYPE OF FACILITY: residential subdivision; RULE VIOLATED: 30 TAC §213.5(b)(4)(D)(ii)(II), by failing to provide the required basin certification performed by a Texas licensed professional engineer; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(26) COMPANY: Valero Refining-Texas, L.P.; DOCKET NUMBER: 2007-0161-AIR-E; IDENTIFIER: RN100219310; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: oil refinery; RULE VIOLATED: 30 TAC §101.221(a) and §116.115(c), 40 CFR §60.18(c)(2), Air Permit 2501A, Special Condition 1 and 10B, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$38,000; ENFORCEMENT COORDINATOR: Kimberly Morales, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(27) COMPANY: Watco Tanks, Inc.; DOCKET NUMBER: 2007-0118-AIR-E; IDENTIFIER: RN102519584; LOCATION: Floresville, Wilson County, Texas; TYPE OF FACILITY: metal tank painting and refinishing plant; RULE VIOLATED: 30 TAC §122.121 and §122.130(a) and THSC, §382.054 and §382.085(b), by failing to submit an application for a Title V Federal Operating Permit and continued to operate without permit authorization; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Lindsey Jones, (512) 239-4930; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(28) COMPANY: Weatherford U.S., L.P.; DOCKET NUMBER: 2006-2228-IWD-E; IDENTIFIER: RN102586088; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: research, development, and oilfield equipment testing; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0004760000, Effluent Limitations and Monitoring Requirement for Outfall 001A Numbers 1 and 3, and for Outfall 002A Numbers 1 and 2, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$8,800; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(29) COMPANY: City of Winnsboro; DOCKET NUMBER: 2007-0127-MWD-E; IDENTIFIER: RN102916913; LOCATION: Winnsboro, Wood County, Texas; TYPE OF FACILITY: wastewater treatment system; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010319002, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations; PENALTY: \$6,650; Supplemental Environmental Project (SEP) offset amount of \$5,320 applied to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Wastewater Treatment Assistance; ENFORCEMENT COORDINATOR: Lynley Doyen, (512) 239-1364; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

TRD-200701279

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: April 3, 2007



Notice of District Petition

Notices issued March 27, 2007 through March 29, 2007

TCEQ Internal Control No. 01092007-D03; The Stoddard Group, Ltd. and TMI, Inc. (the "Petitioners") filed a petition for creation of Fort Bend County Municipal Utility District No. 170 (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioners are the owners of a majority in value of the land to be included in the proposed District; (2) there is one lien holder, Capital Farm Credit, FLCA, on the property to be included in the proposed District, and the Petitioners have provided the TCEQ with the certificate evidencing the lien holder's consent to the creation of the proposed District; (3) the proposed District will contain approximately 848.4 acres located in Fort Bend County, Texas; and (4) the proposed District is within the corporate boundaries of the City of Fulshear, Texas. By Resolution No. 06-135, effective December 19, 2006, the City of Fulshear, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioners have conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$21,800,000.

TCEQ Internal Control No. 03132007-D04; Woodforest Partners LP (the "Petitioner") filed a petition for creation of Montgomery County Municipal Utility District No. 114 (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) there is one lien holder, Old Kentucky Farms LP, on the property to be included in the proposed District, and the Petitioner has provided the TCEQ with evidence of the lien holder's consent to the creation of the proposed District; (3) the proposed District will contain approximately 815.89 acres located in Montgomery County, Texas; and (4) no portion of land within the proposed District is within the corporate boundaries or extraterritorial jurisdiction of any city, town, or village in Texas. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the

information available at the time, the cost of the project is estimated to be approximately \$53,960,000.

TCEQ Internal Control No. 02202007-D02; Timberleaf Properties LP (the "Petitioner") filed a petition for creation of Harris County Municipal Utility District No. 483 (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 463.64 acres located in Harris County, Texas; and (3) the proposed District is within the extraterritorial jurisdiction of the City of Houston, Texas. The Petitioner, by separate affidavit, indicates that there is one lien holder, Capital Farm Credit FLCA, on the property to be included in the proposed District. The Petitioner has provided the TCEQ with a certificate evidencing the lien holder's consent to the creation of the proposed District. By Ordinance No. 2007-15, effective January 9, 2007, the City of Houston, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$21,544,073.

TCEQ Internal Control No. 02202007-D03; Timberleaf Properties LP (the "Petitioner") filed a petition for creation of Harris County Municipal Utility District No. 484 (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 550.97 acres located in Harris County, Texas; and (3) the proposed District is within the extraterritorial jurisdiction of the City of Houston, Texas. The Petitioner, by separate affidavit, indicates that there is one lien holder, Capital Farm Credit FLCA, on the property to be included in the proposed District. The Petitioner has provided the TCEQ with a certificate evidencing the lien holder's consent to the creation of the proposed District. By Ordinance No. 2007-16, effective January 9, 2007, the City of Houston, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$18,698,263.

TCEQ Internal Control No. 02202007-D04; Timberleaf Properties LP (the "Petitioner") filed a petition for creation of Harris County Municipal Utility District No. 485 (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 370.71 acres located in Harris County, Texas; and (3) the proposed District is within the extraterritorial jurisdiction of the City of Houston, Texas. The Petitioner, by separate affidavit, indicates that there is one lien holder, Capital Farm Credit FLCA, on the property to be included in the proposed District. The Petitioner has provided the TCEQ with a certificate evidencing the lien holder's consent to the creation of the proposed District. By Ordinance No. 2007-17, effective January 9, 2007, the City of Houston, Texas,

gave its consent to the creation of the proposed District. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$16,972,142.

TCEQ Internal Control No. 11152006-D01; Cibolo Creek Municipal Authority of Bexar, Comal, and Guadalupe counties (the "Authority") filed an application with the Texas Commission on Environmental Quality (TCEQ) for authority to levy impact fees of \$1,800 per equivalent single-family connection for new connections to the wastewater treatment and collection systems within all of the service areas of the Cibolo Creek Municipal Authority. The Authority files this application under the authority of Chapter 395 of the Local Government Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the TCEQ. The impact fee application and supporting information are available for inspection and copying during regular business hours in the Utilities and Districts Section of the Water Supply Division, Third Floor of Building F (in the TCEQ Park 35 Office Complex located between Yager and Braker lanes on North IH-35), 12100 Park 35 Circle, Austin, Texas 78753. A copy of the impact fee application and supporting information, as well as the capital improvements plan, is available for inspection and copying at the Authority's office during regular business hours.

INFORMATION SECTION

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200701296

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 4, 2007



Notice of Public Hearing on Proposed Revisions to 30 TAC
Chapter 30, Occupational Licenses and Registrations

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revisions to 30 TAC Chapter 30, Occupational Licenses and Registrations, under the requirements of Texas Health and Safety Code, §382.017; and Texas Government Code, Chapter 2001, Subchapter B.

The commission proposes the repeal of §§30.28, 30.125, 30.210, 30.246, 30.318, 30.319, 30.349 and 30.399; new §§30.28, 30.210, 30.213, 30.214, 30.319; and 30.500 - 30.508; and amendments to §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.30, 30.33, 30.51, 30.60, 30.81, 30.90, 30.92, 30.111, 30.120, 30.122, 30.129, 30.171, 30.180, 30.185, 30.190, 30.192, 30.201, 30.212, 30.231, 30.240, 30.242, 30.244, 30.245, 30.247, 30.261, 30.270, 30.272, 30.274, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.337, 30.340, 30.342, 30.350, 30.355, 30.381, 30.387, 30.390, 30.392, and 30.400. The proposed rulemaking would ensure consistency between the rules and their applicable statutes, make grammatical and punctuation corrections, as well as consolidate the administrative requirements and establish uniform procedures for the occupational licensing and registration programs prescribed by Texas Water Code, Chapter 37.

A public hearing on this proposal will be held in Austin, Texas, on May 7, 2007, at 2:00 p.m., in Building E, Room 201S, at the Texas Commission on Environmental Quality complex located at 12100 Park 35 Circle. The hearing will be structured for the receipt of oral or written comments by interested persons. Registration will begin 30 minutes prior to the hearing. Individuals may present oral statements when called upon in order of registration. A time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Persons planning to attend the hearing with special communication or other accommodation needs should contact Lola Brown, Office of Legal Services, at (512) 239-0348. Requests should be made as far in advance as possible.

Comments may be submitted to Lola Brown, MC 205, Texas Register Team, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at <http://www5.tceq.state.tx.us/rules/ecomments>. File size restrictions may apply to comments being submitted via the eComments system. The comment period closes May 14, 2007. All comments should reference Rule Project Number 2006-041-030-CE. The proposed revisions may be viewed on the commission's Web site at http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information or questions concerning this proposal, please contact Terry Thompson, Compliance Support Division, at (512) 239-6095.

TRD-200701245

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 30, 2007



Notice of Water Quality Applications

The following notices were issued during the period of March 22, 2007 through March 29, 2007.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk,

Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

AQUA UTILITIES, INC. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014754001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The facility will be located one mile north of Highway 377 on M&M Ranch Road in Hood County, Texas.

BP REAL ESTATE INVESTMENTS, LTD. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014713001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 225,000 gallons per day. The facility will be located approximately 3,000 feet northwest of the intersection of Park Road 37 and State Highway 16 in Medina County, Texas.

CITY OF BOVINA has applied for a new permit, Proposed Permit No. WQ0014730001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day via surface irrigation of 63 acres of non-public access pastureland. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site will be located approximately 0.75 mile northeast of the intersection of State Highway 86 and East Street, to the south of State Highway 86 in Parmer County, Texas.

CAL FARLEY'S BOYS RANCH has applied for a new permit, Proposed Permit No. WQ0014750001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day via surface irrigation of 60.0 acres of non-public access agricultural land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located approximately 0.2 mile north and 1.6 miles east of the intersection of U.S. Highway 385 and Spur 233 in Oldham County, Texas.

CITY OF CALDWELL has applied for a renewal of TPDES Permit No. WQ001081300, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 711,000 gallons per day. The facility is located at 831 State Highway 36 South on the west bank of Davidson Creek, 1 mile southeast of the intersection of State Highway 21 and State Highway 36 in Burleson County, Texas.

CANEY CREEK UTILITIES, INC. has applied for a renewal of TPDES Permit No. 12023-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility is located on Hunters Point Road on the west bank of Lake Conroe approximately 3/4 mile north of Farm-to-Market Road 1097 in Montgomery County, Texas.

Carlisle Independent School District has applied for a renewal of TPDES Permit No. WQ0014292001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 17,500 gallons per day. The facility is located 900 feet south of the intersection of Farm-to-Market Road 13 and State Highway 42, 500 feet west of State Highway 42 in Rusk County, Texas.

CHAMP'S WATER COMPANY has applied for a renewal of TPDES Permit No. 11005-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 280,000 gallons per day. The facility is located southwest of the intersection of Bonazzi Boulevard and Stallings Drive, approximately 3,750 feet west of West Montgomery Road, 11 miles northwest of the City of Houston central business district and 2.9 miles west of Interstate Highway 45 in Harris County, Texas.

Conroe Independent School District has applied for a renewal of TPDES Permit No. 13690-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The facility is located approximately 2,000 feet south of Farm-to-Market Road 2090 and 600 feet west of Farm-to-Market 1485 and 10 miles southeast of the City of Conroe in Montgomery County, Texas.

CITY OF MURCHISON has applied for a renewal of TPDES Permit No. 13972-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 80,000 gallons per day. The facility is located approximately 2,800 feet northeast of the intersection of Farm-to-Market Road 773 and County Road 1616, adjacent to County Road 1616 at the northeast edge of the City of Murchison in Henderson County, Texas.

East Montgomery County Municipal Utility District No. 4 has applied for a renewal of TPDES Permit No. WQ0014311001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The facility will be located approximately 4,000 feet northwest of the intersection of U.S. Highway 59 and Farm-to-Market Road 242 in Montgomery County, Texas.

CITY OF GUNTER has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010569002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 950,000 gallons per day. The facility will be located approximately 1800 feet east of the intersection of J C Maples Road and Farm-to-Market Road 121 in Grayson County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 276 has applied for a renewal of TPDES Permit No. 12927-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The facility is located approximately 800 feet west of the intersection of State Highway 6 and West Little York Road and approximately 100 feet south of West Little York Road in Harris County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 345 has applied for a renewal of TPDES Permit No. WQ0012356001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 710,000 gallons per day. The facility is located at 1302 Cypress Wind Road, approximately 0.5 mile south of Interstate Highway 10 and 0.5 mile east of Baker Road in Harris County, Texas.

THE CITY OF HOUSTON has applied for a renewal of TPDES Permit No. WQ0010495135, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 3,500,000 gallons per day. The facility is located at 16,500 Park Row in the City of Houston, in Harris County, Texas.

THE CITY OF HOUSTON has applied for a major amendment to TPDES Permit No. 10495-139 to authorize an increase in the 2-hour peak flow discharge from 2,076 gallons per minute (gpm) to 2,597 gpm. The current permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 995,000 gallons per day. The facility is located approximately 250 feet west of the intersection of Genard Road and Steffani Lane in Harris County, Texas.

NCI BUILDING SYSTEMS, L.P. has applied for a renewal of TPDES Permit No. 12552-002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day. The facility is located at 7301 Fairview Street, approximately 0.4 mile north of Farm-to-Market Road 529, 1.5 miles northwest of the intersection of Farm-to-Market Road 529 and U.S. Highway 290, and approximately 18 miles northwest of the City of Houston Central Business District in Harris County, Texas.

NCI BUILDING SYSTEMS, L.P. has applied for a renewal of TPDES Permit No. WQ0014316001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 55,000 gallons per day. The facility will be located approximately 0.4 mile north of Farm-to-Market Road 529 near the City of Jersey Village, approximately 1.5 miles northwest of the intersection of Farm-to-Market Road 529 and U.S. Highway 290, and approximately 18 miles northwest of the City of Houston central business district in Harris County, Texas.

City of Newton has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014748001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 960,000 gallons per day. The facility is located north of Caney Creek, approximately 7,000 feet southeast of the intersection of McMahon Street and Davidson Road, in the City of Newton in Newton County, Texas.

Northside Christian Church has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014759001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The facility will be located at 20250 Kuykendahl Road in the City of Spring, Harris County, Texas.

SPLENDORA INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TPDES Permit No. 11143-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 70,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day. The facility is located east of State Highway Spur 512, approximately 0.4 mile northeast of the intersection of State Highway Spur 512 and Farm-to-Market Road 2090 in Montgomery County, Texas.

TEXAS NATIONAL MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. 11715-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 75,000 gallons per day. The facility is located north of Camp Creek, approximately 1.50 miles northeast of the intersection of Texas National Boulevard and Farm-to-Market Road 2432 in Montgomery County, Texas.

Tri-B Industrial Partners, L.P. (Owner) and Timely Integrated, Inc. (Operator), which propose to operate a truck wash facility, have applied for a new permit, Proposed Permit No. WQ0004800000 to authorize the disposal of truck wash water at a daily average flow not to exceed 270 gallons per day via evaporation. This permit will not authorize a discharge of pollutants into water in the State. The facility site and evaporation pond are located at 13006 Gateway East, adjacent to Interstate Highway 10, approximately 2.3 miles southeast of the City of Socorro, and approximately 2.5 miles northeast of the City of Clint, El Paso County, Texas.

TWAN DEVELOPMENT, L.L.C. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014776001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility will be located at 24723 Stuebner Airline Road, approximately 1.5 miles north-northeast of the intersection of Farm-to-Market Road 2920 and Farm-to-Market Road 2978 in Harris County, Texas.

VIA BAYOU, INC. has applied for a renewal of TPDES Permit No. 14326-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility is located at 10000 San Leon Drive in Galveston County, Texas.

WEST HOUSTON AIRPORT CORPORATION has applied for a major amendment to TPDES Permit No. 12516-001 to authorize an in-

crease in the discharge of treated domestic wastewater from a daily average flow not to exceed 2,000 gallons per day to a daily average flow not to exceed 15,000 gallons per day. The facility is located on Lakeside Airport property at 18000 Groeschke Road in Harris County, Texas. The treated effluent is discharged to Harris County Flood Control District Ditch # U101-15; thence to South Mayde Creek; thence to Buffalo Bayou Above Tidal in Segment No. 1014 of the San Jacinto River Basin.

The following do not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, at the address provided in the information section above, **WITHIN 30 DAYS OF THE ISSUED DATE OF THE NOTICE.**

The Texas Commission on Environmental Quality (TCEQ) has initiated a minor amendment of the Texas Pollutant Discharge Elimination System (TPDES) permit issued to CITY OF BRYAN to include a whole effluent toxicity (WET) limit for the 7-day short term chronic toxicity test of the fathead minnow species. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,000,000 gallons per day. The facility is located northwest of State Highway 21 and approximately 2,300 feet west-southwest of the intersection of State Highway 21 and Farm-to-Market Road 2818 in Brazos County, Texas.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200701294

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 4, 2007



Notice of Water Rights Applications

Notices issued March 29, 2007 through April 2, 2007

APPLICATION NO. WRTP 12113; One Carter Ranch LP, 3901 Airport Freeway, Suite 200, Bedford, Texas, 76201, applicant, has applied for a Water Use Permit to reconstruct and maintain a dam and reservoir located on an unnamed tributary of Doe Branch, Trinity River Basin, for in-place recreational purposes in Collin County. The application and the required fees were received on October 30, 2006. Additional information and was received on January 23, February 15, and February 16, 2007. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on March 6, 2007. Written public comments and requests for a public meeting should be received in the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

APPLICATION NO. 12099; TXU Mining Company L.P., 1601 Bryan Street, Dallas, TX 75201-3411, Applicant, has applied for a water use

permit to maintain five dams and reservoirs and to divert and use not to exceed 200 acre-feet of water per year from three diversion segments located on Unnamed tributaries of East Piney Creek; East Piney Creek; Unnamed tributaries of Piney Creek; and Piney Creek, Sulphur River Basin, for mining purposes within Piney/East Piney Creek Watershed in Titus County. The application and fees were received on August 17, 2006. Additional information was received on November 16, 2006. The application was accepted for filing and declared administratively complete on January 3, 2007. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement A[I/we] request a contested case hearing; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200701295

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 4, 2007



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Beaumont	The Goodyear Tire & Rubber Co Beaumont Chemical Plant	L06063	Beaumont	00	03/22/07
San Antonio	Urology San Antonio PA DBA San Antonio Center for Cancer Treatment	L06047	San Antonio	00	03/29/07

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Abilene	Abilene Imaging Center LLC	L05687	Abilene	06	03/26/07
Abilene	Hendrick Medical Center	L02433	Abilene	93	03/16/07
ARP	Baker Tank Company	L02599	ARP	24	03/16/07
Austin	Ambion Inc	L04307	Austin	18	03/26/07
Austin	Asuragen Inc	L05977	Austin	03	03/16/07
Austin	Daughters of Charity Health Services Austin DBA Brackenridge Hospital	L00268	Austin	93	03/20/07
Austin	Daughters of Charity Health Services Austin DBA Brackenridge Hospital	L00268	Austin	94	03/26/07
Baytown	Baytown Cardiology Associates	L05040	Baytown	11	03/27/07
Beaumont	BASF Corporation	L02016	Beaumont	28	03/26/07
Beaumont	Exxonmobil Chemical Company	L02316	Beaumont	35	03/27/07
Bedford	Carter Bloodcare	L00630	Bedford	43	03/19/07
Borger	WRB Refining LLC DBA Conocophillips Company	L02480	Borger	49	03/28/07
Brownwood	Brownwood Specialty Group DBA BSG Imaging	L05878	Brownwood	03	03/23/07
Clarksville	East Texas Medical Center Clarksville DBA ETMC Clarksville	L02978	Clarksville	23	03/28/07
Commerce	Texas A&M University - Commerce	L00604	Commerce	40	03/21/07
Conroe	CHCA Conroe LP DBA Conroe Regional Medical Center	L01769	Conroe	69	03/14/07
Corpus Christi	Radiology & Imaging of South Texas LLP DBA Alameda Imaging Center	L05182	Corpus Christi	16	03/29/07
Corpus Christi	Radiology Associates LLP	L04169	Corpus Christi	46	03/23/07
Dallas	Baylor University Medical Center	L01290	Dallas	82	03/19/07
Dallas	Criterion Imaging LTD DBA Richardson Diagnostic Imaging/Quantum Diagnostic	L05468	Dallas	12	03/28/07
Dallas	Dallas Cardiology Associates DBA Heartplace Methodist	L05541	Dallas	04	03/19/07
Dallas	Medical City Dallas Hospital DBA Medical City	L01976	Dallas	170	03/22/07
Dallas	PETNET Solutions Inc	L05193	Dallas	24	03/27/07
Dallas	PETNET Solutions Inc	L05193	Dallas	25	03/29/07
Dallas	Physician Reliance Network DBA Texas Cancer Center at Medical City Dallas	L05534	Dallas	08	03/19/07
Dallas	The University of Texas Southwestern Medical Center at Dallas	L00384	Dallas	96	03/23/07
Denton	Cor Specialty Associates of North Texas PA DBA The Denton Heart Group	L05381	Denton	02	03/19/07

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Diboll	Tin Inc DBA Temple Inland Fiber Product Operation	L00935	Diboll	28	03/09/07
Edinburg	Doctors Hosptial at Renaissance LTD DBA Doctors Hospital at Renaissance	L05761	Edinburg	13	03/23/07
El Paso	Blood Systems Inc DBA United Blood Services	L05841	El Paso	03	03/16/07
El Paso	The University of Texas at El Paso	L00159	El Paso	55	03/20/07
Ennis	Ellis County Medical Associates	L05759	Ennis	04	03/22/07
Fort Worth	Adventist Health System Sunbelt Healthcare Corporation DBA Huguley Health System	L02920	Fort Worth	32	03/26/07
Fort Worth	Forth Worth Medical Plaza Inc DBA Columbia Plaza Medical Center of Fort Worth	L02171	Fort Worth	49	03/23/07
Fort Worth	Harris Methodist Fort Worth	L01837	Fort Worth	108	03/28/07
Fort Worth	Harris Methodist Hospital Southwest	L04146	Fort Worth	12	03/28/07
Fort Worth	Heart Center of North Texas PA	L05338	Fort Worth	11	03/22/07
Fort Worth	John Peter Smith Hospital	L02208	Fort Worth	62	03/16/07
Fort Worth	Osteopathic Surgery Center of Fort Worth DBA Physicians Surgical Center of Fort Worth	L05863	Fort Worth	03	03/28/07
Fort Worth	Precision Energy Services Inc	L00747	Fort Worth	76	03/26/07
Fort Worth	Radiology Associates	L03953	Fort Worth	44	03/15/07
Fort Worth	Tarrant County Cardiology	L04659	Fort Worth	14	03/26/07
Gun Barrel City	Heartmasters PA	L05760	Gun Barrel City	03	03/26/07
Harlingen	Valley Baptist Medical Center	L01909	Harlingen	64	03/22/07
Houston	Columbia/HCA Healthcare Corp DBA Spring Branch Medical Center	L02473	Houston	58	03/21/07
Houston	Gulf Coast MRI & Diagnostic	L05333	Houston	09	03/22/07
Houston	Gulf Coast MRI & Diagnostic	L05333	Houston	10	03/27/07
Houston	Houston Associates of Cardiovascular Med. DBA Houston Cardiac Association	L05840	Houston	01	03/21/07
Houston	Houston Medical Imaging	L05184	Houston	09	03/22/07
Houston	Nuclear Imaging Services	L05775	Houston	28	03/28/07
Houston	PETNET Houston LLC DBA PETNET Houston LLC	L05542	Houston	11	03/28/07
Houston	Red Oak Cardiovascular Center PA	L04159	Houston	14	03/22/07
Houston	The Houston Proton Therapy Center Houston LTD LLP DBA The MD Anderson Cancer Proton Therapy Center	L05859	Houston	01	03/23/07
Houston	TOPS Specialty Hosptial LTD DBA TOPS Surgical Specialty Hosptial	L05441	Houston	10	03/16/07
Houston	University of Houston	L01886	Houston	56	03/23/07
Huntsville	Huntsville Memorial Hospital	L02822	Huntsville	15	03/28/07
Jewett	Nucor Steel - Texas Division	L02404	Jewett	18	03/26/07
Jewett	Nucor Steel - Texas Division	L02504	Jewett	17	03/15/07
Katy	St Catherine Health and Wellness Center	L05310	Katy	11	03/27/07
Killeen	Metroplex Hospital	L03185	Killeen	28	03/28/07
Kingsville	Christus Spohn Health System DBA Christus Spohn Hospital Kleberg	L02917	Kingsville	43	03/16/07
La Grange	Austin Heart La Grange	L05516	La Grange	19	03/22/07
La Porte	Acuren Inspection Inc	L01774	La Porte	231	03/22/07
La Porte	Cardiorad Inc	L05755	La Porte	12	03/23/07
La Porte	Total Petrochemicals USA Inc	L04640	La Porte	19	03/20/07

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amend- ment #	Date of Action
Lubbock	Covenant Health System DBA Joe Arrington Cancer Research and Treatment Center	L04881	Lubbock	42	03/19/07
Lubbock	Covenant Medical Center	L00483	Lubbock	135	03/22/07
Lubbock	Lubbock Heart Hospital LP	L05742	Lubbock	04	03/23/07
Lubbock	University Medical Center	L04719	Lubbock	94	03/26/07
Marble Falls	Austin Heart PA DBA Austin Heart Clinic Marble Falls	L05505	Marble Falls	17	03/23/07
Midland	Midland County Hosptial District DBA Midland Memorial Hospital	L00728	Midland	80	03/28/07
Midlothian	Ash Grove Texas LP	L05424	Midlothian	03	03/29/07
Odessa	Ector County Hospital District DBA Medical Center Hospital	L01223	Odessa	83	03/29/07
Pampa	Mundy Maintenance and Services LLC	L04360	Pampa	31	03/16/07
Pasadena	AES Deepwater Inc	L03746	Pasadena	15	03/26/07
Pasadena	Memc Pasadena Inc	L05129	Pasadena	08	03/26/07
Plano	North Texas Regional Cancer Center	L05357	Plano	08	03/19/07
Round Rock	Heart & Vascular of Central Texas	L06045	Round Rock	01	03/16/07
San Angelo	San Angelo Hospital LP DBA San Angelo Community Medical Ctr	L02487	San Angelo	40	03/23/07
San Antonio	Alamo Feline Health Center PC	L05752	San Antonio	05	03/26/07
San Antonio	Heart Institute of South Texas	L04377	San Antonio	23	03/23/07
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	227	03/20/07
San Antonio	PETNET Solutions Inc	L05569	San Antonio	15	03/28/07
San Antonio	The University of Texas Health Science Center at San Antonio	L01279	San Antonio	108	03/16/07
San Antonio	The University of Texas Health Science Center at San Antonio	L01279	San Antonio	109	03/27/07
San Antonio	VHS San Antonio Imaging Partners LP DBA Baptist M&S Imaging Centers	L04506	San Antonio	58	03/29/07
Sherman	Scela Inc DBA Cardinal Health	L05461	Sherman	12	03/21/07
Sherman	Sherman Heart Group LLP	L05498	Sherman	07	03/19/07
Southlake	Healthcare Associates of Southlake LLP DBA Executive Medicine of Southlake	L05854	Southlake	01	03/23/07
Stafford	Burzynski Research Institute Inc	L02948	Stafford	21	03/26/07
Stafford	Ramco Laboratories	L02172	Stafford	17	03/22/07
Sugarland	Southwest Cardiology Associates	L05749	Sugarland	03	03/23/07
Sunray	Diamond Shamrock Refining Company LP	L04398	Sunray	15	03/23/07
Temple	Texas A&M University System Health Science Center	L05494	Temple	08	03/23/07
The Woodlands	Memorial Hosptial The Woodlands	L03772	The Woodlands	54	03/16/07
Throughout TX	City of Abilene Housing Authority	L05459	Abilene	05	03/20/07
Throughout TX	Team Industrial Service Inc	L00087	Alvin	161	03/28/07
Throughout TX	Team Industrial Services Inc	L00087	Alvin	159	03/23/07
Throughout TX	Team Industrial Services Inc	L00087	Alvin	158	03/21/07
Throughout TX	Team Industrial Services Inc	L00087	Alvin	160	03/27/07
Throughout TX	Weatherford US LP	L02756	Alvin	24	03/21/07
Throughout TX	City of Amarillo	L02320	Amarillo	20	03/26/07
Throughout TX	Gulf Coast Weld Spec	L05426	Beaumont	55	03/28/07
Throughout TX	City of Brownwood	L05073	Brownwood	05	03/29/07
Throughout TX	Bryant Consultants Inc	L05096	Carrolton	08	03/26/07
Throughout TX	Patterson Tubular Services Inc	L03148	Channelview	25	03/26/07
Throughout TX	Texas A&M University	L05683	College Station	06	03/28/07
Throughout TX	Star-Jet Services Inc	L02214	Corpus Christi	20	03/27/07

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amend -ment #	Date of Action
Throughout TX	Diamondback Energy Service DBA Diamondback Pumping Services LP	L06016	Cresson	03	03/14/07
Throughout TX	APAC - Texas Inc	L04503	Dallas	12	03/22/07
Throughout TX	JRJ Paving Inc	L05307	Dallas	05	03/26/07
Throughout TX	Lawrence Engineering	L05707	Dallas	02	03/22/07
Throughout TX	Integrity Testing & Inspection Inc	L06027	El Paso	02	03/22/07
Throughout TX	Alliance Engineering & Testing Services Inc	L05889	Fort Worth	03	03/20/07
Throughout TX	Freese and Nichols Inc	L04301	Fort Worth	13	03/20/07
Throughout TX	Entact Services LLC	L05627	Grapevine	05	03/19/07
Throughout TX	Digrad Imaging Solutions Inc	L05414	Houston	28	03/27/07
Throughout TX	ERM Remediation & Construction	L05877	Houston	03	03/21/07
Throughout TX	French Engineering Inc	L04572	Houston	07	03/29/07
Throughout TX	Goolsby Testing Laboratories Inc	L03115	Humble	86	03/19/07
Throughout TX	Acuren Inspection Inc	L01774	La Porte	230	03/19/07
Throughout TX	Master Industries Inc	L05872	Liberty	06	03/23/07
Throughout TX	Master Industries Inc	L05872	Liberty	07	03/28/07
Throughout TX	Lubbock Labs	L01558	Lubbock	14	03/26/07
Throughout TX	Professional Service Industries	L03924	McKinney	23	03/21/07
Throughout TX	Composite Lining Systems LP	L04861	Midland	16	03/12/07
Throughout TX	Apollo Perforators Inc	L03020	Odessa	17	03/15/07
Throughout TX	Apollo Perforators Inc	L03020	Odessa	18	03/21/07
Throughout TX	Desert Industrial X-Ray LP	L04590	Odessa	60	03/21/07
Throughout TX	Quantum Technical Services Inc	L03731	Pasadena	28	03/15/07
Throughout TX	Techcorr USA LLC	L05972	Pasadena	21	03/22/07
Throughout TX	Techcorr USA LLC	L05972	Pasadena	22	03/27/07
Throughout TX	Carrillo & Associates Inc	L05804	San Antonio	05	03/28/07
Throughout TX	TSI Laboratories	L04767	Victoria	09	03/22/07
Throughout TX	Frontera Materials Inc	L04830	Weslaco	13	03/19/07
Tomball	Cardiovascular Institute PA	L05740	Tomball	03	03/22/07
Tomball	Tomball Hospital Authority DBA Tomball Regional Hospital	L02514	Tomball	42	03/26/07
Tyler	East Texas Medical Center Healthcare Assoc DBA First Physicians	L05702	Tyler	11	03/30/07
Tyler	Tyler Cardiovascular Consultants PA CVC	L05242	Tyler	13	03/21/07
Waco	Hillcrest Baptist Medical Center	L00845	Waco	80	03/20/07
Waco	Providence Health Center	L01638	Waco	52	03/28/07
Waco	Waco Cardiology Associates	L05158	Waco	14	03/22/07
Webster	River Oaks Imaging and Diagnostic LP DBA River Oaks Imaging and Diagnostic	L05475	Webster	08	03/27/07
Wichita Falls	Clinics of North Texas LLP	L00523	Wichita Falls	49	03/15/07
Wichita Falls	Clinics of North Texas LLP	L00523	Wichita Falls	50	03/27/07
Winnie	Newpark Environmental Services of TexasLP	L04999	Winnie	11	03/19/07

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amend -ment #	Date of Action
Orange	RTPS Acquisition Company LLC DBA Southeast Texas Cardiology Assoc. II	L05204	Orange	11	03/22/07
Throughout Tx	CMP Group LLC	L02397	Houston	16	03/29/07
Throughout Tx	Silva Contracting Company Inc	L05266	Richmond	03	03/20/07
San Antonio	Central Cardiovascular Institute of San Antonio	L04892	San Antonio	17	03/20/07
Wichita Falls	United Regional Healthcare System Inc	L00350	Wichita Falls	103	03/27/07

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Health Images Texas Inc DBA Healthsouth Diagnostic Medical Center	L05005	Houston	09	03/28/07
Longview	Kings Management & Leasing LLC DBA Longview Imaging Center	L5649	Longview	01	03/30/07
Pittsburg	Pilgrims Pride Corporation	L04150	Pittsburg	09	03/12/07
San Antonio	Nova Consulting Group Inc	L05322	San Antonio	04	03/29/07
Throughout Tx	The Good Year Tire & Rubber Beaumont Chemical Plant	L04006	Beaumont	17	03/22/07
Throughout Tx	Danny Sander Construction Inc	L04041	El Paso	09	03/28/07

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of Title 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200701285
Cathy Campbell
General Counsel
Department of State Health Services
Filed: April 3, 2007

Texas Department of Housing and Community Affairs

Notice of Public Hearing

Multifamily Housing Revenue Bonds (Costa Rialto) Series 2007

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Issuer") at Francis Elementary School, 14815 Lee Road, Houston, Harris County, Texas 77032, at 6:00 p.m. on May 1, 2007, with respect to an issue of tax-exempt multifamily residential rental development revenue bonds in an aggregate principal amount not to exceed \$14,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Issuer. The proceeds of the Bonds will be loaned to Costa Rialto, Ltd., a limited partnership, or a related person or affiliate thereof (the "Borrower") to finance a portion of the costs of acquiring, constructing, and equipping a multifamily housing development (the "Development") described as follows: 216-unit multifamily residential rental development to be located at approximately the 5000 block of Aldine Bender Road, Harris County, Texas. Upon the issuance of the Bonds, the Development will be owned by the Borrower.

All interested parties are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Teresa Morales at the Texas Department of Housing and Community Affairs, P.O. Box 13941 Austin, TX 78711-3941; (512) 475-3344; and/or teresa.morales@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Teresa Morales in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Teresa Morales prior to the date scheduled for the hearing. Individuals who require a language interpreter for the hearing should contact Teresa Morales at least three days prior to the hearing date. Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Esteves, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

TRD-200701281
Michael G. Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 3, 2007

Notice of Public Hearing

Multifamily Housing Revenue Bonds (Windshire Apartments) Series 2007

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Issuer") at Garfield Elementary, 10301 Hartsook, Houston, Harris County, Texas 77034, at 6:30 p.m. on May 8, 2007, with respect to an issue of tax-exempt multifamily residential rental development revenue bonds in an aggregate principal amount not to exceed \$15,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Issuer. The proceeds of the Bonds will be loaned to Windshire Apartments, L.P., a limited partnership, or a related person or affiliate thereof (the "Borrower") to finance a portion of

the costs of acquiring, constructing, and equipping a multifamily housing development (the "Development") described as follows: 252-unit multifamily residential rental development to be located at approximately the 4500 block of S. Shaver, Houston, Harris County, Texas. Upon the issuance of the Bonds, the Development will be owned by the Borrower.

All interested parties are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Teresa Morales at the Texas Department of Housing and Community Affairs, P.O. Box 13941 Austin, TX 78711-3941; (512) 475-3344; and/or teresa.morales@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Teresa Morales in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Teresa Morales prior to the date scheduled for the hearing. Individuals who require a language interpreter for the hearing should contact Teresa Morales at least three days prior to the hearing date. Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Esteves, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

TRD-200701282
Michael G. Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 3, 2007

Texas Department of Insurance

Company Licensing

Application for admission to the State of Texas by ADMIRAL LIFE INSURANCE COMPANY OF AMERICA a foreign life, accident and/or health company. The home office is in Phoenix, Arizona.

Application for admission to the State of Texas by HOMEWISE PREFERRED INSURANCE COMPANY a foreign fire and/or casualty company. The home office is in Tampa, Florida.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-200701290
Gene C. Jarmon
Chief Clerk and General Counsel
Texas Department of Insurance
Filed: April 4, 2007

Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application of MERCER HEALTH & BENEFITS ADMINISTRATION LLC, a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Application to change the name of ADMINISTRATION SYSTEMS RESEARCH CORPORATION INTERNATIONAL (using the assumed name of ASR CORPORATION) to ADMINISTRATION SYSTEMS RESEARCH CORPORATION INTERNATIONAL (using the assumed name of ASR HEALTH BENEFITS), a foreign third party administrator. The home office is GRAND RAPIDS, MICHIGAN.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of Matt Ray, MC 107-1A, 333 Guadalupe, Austin, Texas 78701.

TRD-200701298
Gene C. Jarmon
Chief Clerk and General Counsel
Texas Department of Insurance
Filed: April 4, 2007

Texas Department of Licensing and Regulation

Public Notice - Revised Enforcement Plan

The Texas Commission of Licensing and Regulation ("Commission") provides this public notice that at their regularly scheduled meeting held March 28, 2007, the Commission adopted the Texas Department of Licensing and Regulation's ("Department") revised enforcement plan which was established in compliance with Texas Occupations Code, §51.302(c).

The enforcement plan gives all license holders notice of the specific ranges of penalties and license sanctions that apply to specific alleged violations of the statutes and rules enforced by the Department. The enforcement plan also presents the criteria that are considered by the Department's Enforcement staff in determining the amount of a proposed administrative penalty or the magnitude of a proposed sanction.

The revisions to the enforcement plan include nonsubstantive changes which update statutory and administrative rule references and citations, delete unnecessary or obsolete provisions, and add new violations created by changes to the statutes and rules; however, substantive changes were made to the Boiler and Combative Sports penalty matrices.

A copy of the revised enforcement plan is posted on the Department's website and may be downloaded at www.license.state.tx.us. You may also contact the Enforcement Division at (512) 463-2906 or by e-mail at enforcement@license.state.tx.us to obtain a copy of the revised plan.

TRD-200701300
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: April 4, 2007

Public Notice - Updated Criminal Conviction Guidelines

The Texas Commission of Licensing and Regulation ("Commission") provides this public notice that, at their regularly scheduled meeting held March 28, 2007, the Commission adopted the Texas Department of Licensing and Regulation's ("Department") updated Criminal Conviction Guidelines pursuant to Texas Occupations Code, §53.025(a). These guidelines describe the process by which the Department determines whether a criminal conviction renders an applicant an unsuitable candidate for the license, or whether a conviction warrants revocation or suspension of a license previously granted. The guidelines present the general factors that are considered in all cases and the reasons why particular crimes are considered to relate to each type of license issued by the Department.

Acts of the 79th Texas Legislature, Senate Bill 411, transferred the functions of the Texas Cosmetology Commission and the Texas State Board of Barber Examiners to the Department effective September 1, 2005, and abolished both the Texas Cosmetology Commission and the Texas State Board of Barber Examiners. The updated Criminal Conviction Guidelines include the Barber and Cosmetology programs and will become a part of the overall guidelines that are already in place for other Department programs. The Department presented the guidelines to the Barber Board at their meeting of January 8, 2007, and to the Cosmetology Board at their meeting of May 22, 2006, and received recommendations of approval from both advisory bodies.

A copy of the updated Criminal Conviction Guidelines is posted on the Department's website and may be downloaded at www.license.state.tx.us. You may also contact the Enforcement Division at (512) 463-2906 or by email at enforcement@license.state.tx.us to obtain a copy of the updated guidelines.

TRD-200701299

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: April 4, 2007



Texas Lottery Commission

Instant Game Number 800 "Quick Silver"

1.0 Name and Style of Game.

A. The name of Instant Game No. 800 is "QUICK SILVER". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 800 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 800.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, Q SYMBOL, SILVER BAR SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$250, \$2,500 and \$25,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 800 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
Q SYMBOL	AUTO
SILVER BAR SYMBOL	WINALL
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$250	TWO FTY
\$2,500	25 HUND
\$25,000	25 THOU

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for validation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 800 - 1.2E

CODE	PRIZE
TWO	\$2.00
FOR	\$4.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00 or \$250.

I. High-Tier Prize - A prize of \$2,500 or \$25,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (800), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 800-0000001-001.

L. Pack - A pack of "QUICK SILVER" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One ticket will be folded over to expose a front and back of one ticket on each pack. Please note the books will be in an A, B, C and D configuration.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "QUICK SILVER" Instant Game No. 800 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "QUICK SILVER" Instant Game is determined once the latex on the ticket is scratched off to expose 22 (twenty-two) Play Symbols. If a player matches any of YOUR NUMBERS play

symbols to either WINNING NUMBER play symbol, the player wins the PRIZE shown for that number. If a player reveals a quick "Q" play symbol, the player wins the PRIZE shown instantly. If a player reveals a silver bar play symbol, the player wins ALL 10 PRIZES. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 22 (twenty-two) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 22 (twenty-two) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. Non-winning prize symbols will not match a winning prize symbol on a ticket.

C. No three or more identical non-winning prize symbols on a ticket.

D. No duplicate WINNING NUMBERS play symbols on a ticket.

E. There will be no correlation between the matching symbols and the prize amount.

F. The "Q" (auto win) play symbol will never appear more than once on a ticket.

G. The "silver bar" (win all) play symbol will only appear on winning tickets as dictated by the prize structure.

H. The \$2,500 and \$25,000 prize symbols will both appear on all tickets unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "QUICK SILVER" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$250, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00 or \$250 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the

claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "QUICK SILVER" Instant Game prize of \$2,500 or \$25,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "QUICK SILVER" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "QUICK SILVER" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "QUICK SILVER" Instant Game, the

Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by

the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 tickets in the Instant Game No. 800. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 800 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	892,080	7.94
\$4	495,600	14.29
\$5	84,960	83.33
\$10	84,960	83.33
\$20	42,480	166.67
\$50	31,270	226.42
\$250	5,546	1,276.60
\$2,500	44	160,909.09
\$25,000	10	708,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.33. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 800 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 800, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200701224

Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: March 30, 2007



Instant Game Number 803 "Cash Celebration"

1.0 Name and Style of Game.

A. The name of Instant Game No. 803 is "CASH CELEBRATION". The play style is "match 3 of 6 with doubler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 803 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 803.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: \$1.00, \$2.00,

\$3.00, \$5.00, \$10.00, \$20.00, \$30.00, \$100, \$500, \$1,000, and BOOT SYMBOL.

D. Play Symbol Caption--the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 803 - 1.2D

PLAY SYMBOL	CAPTION
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THREE\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$30.00	THIRTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
BOOT SYMBOL	DBLE

E. Retailer Validation Code--Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 803 - 1.2E

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
THR	\$3.00
FOR	\$4.00
FIV	\$5.00
SIX	\$6.00
TEN	\$10.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number--A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize--A prize of \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, \$6.00, \$10.00, or \$20.00.

H. Mid-Tier Prize--A prize of \$30.00, \$60.00, \$100, or \$200.

I. High-Tier Prize--A prize of \$1,000.

J. Bar Code--A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number, and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number--A 13 (thirteen) digit number consisting of the three (3) digit game number (803), a seven (7) digit pack number, and

a three (3) digit ticket number. Ticket numbers start with 001 and end with 150 within each pack. The format will be: 803-0000001-001.

L. Pack--A pack of "CASH CELEBRATION" Instant Game tickets contains 150 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 006 to 010 on the next page; etc.; and tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

M. Non-Winning Ticket--A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket--A Texas Lottery "CASH CELEBRATION" Instant Game No. 803 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "CASH CELEBRATION" Instant Game is determined once the latex on the ticket is scratched off to expose 6 (six) Play Symbols. If a player reveals 3 matching amounts, the player wins that amount. If a player reveals 2 matching amounts and a BOOT symbol, the player wins DOUBLE the amount shown. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 6 (six) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut and have exactly 6 (six) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

16. Each of the 6 (six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 6 (six) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No ticket will contain four or more matching play symbols.

C. No ticket will contain three or more matching play symbols when the doubler symbol appears.

D. The doubler symbol will appear only on winning tickets as dictated by the prize structure.

E. No more than 2 pairs of matching play symbols on a ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "CASH CELEBRATION" Instant Game prize of \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, \$6.00, \$10.00, \$20.00, \$30.00, \$60.00, \$100, or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$30.00, \$60.00, \$100, or \$200 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery

Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "CASH CELEBRATION" Instant Game prize of \$1,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "CASH CELEBRATION" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Office of the Attorney General; or
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "CASH CELEBRATION" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "CASH CELEBRATION" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 8,160,000 tickets in the Instant Game No. 803. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 803 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	1,849,600	4.41
\$2	353,600	23.08
\$3	108,800	75.00
\$4	108,800	75.00
\$5	108,800	75.00
\$6	13,600	600.00
\$10	27,200	300.00
\$20	13,600	600.00
\$30	3,060	2,666.67
\$60	1,394	5,853.66
\$100	1,190	6,857.14
\$200	510	16,000.00
\$1,000	10	816,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.15. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 803 without advance notice; at which point, no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 803, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401 and all final decisions of the Executive Director.

TRD-200701207

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: March 29, 2007



Instant Game Number 806 "Funky 5's"

1.0 Name and Style of Game.

A. The name of Instant Game No. 806 is "FUNKY 5'S". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 806 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 806.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$500, \$1,000, and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 806 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	WINX5
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$25.00	TWY FIV
\$40.00	FORTY
\$50.00	FIFTY

\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 806 - 1.2E

CODE	PRIZE
FIV	\$5.00
TEN	\$10.00
FTN	\$15.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (806), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 806-0000001-001.

L. Pack - A pack of "FUNKY 5'S" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of 001 and front 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "FUNKY 5'S" Instant Game No. 806 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "FUNKY 5'S" Instant Game is determined once the latex on the ticket is scratched off to expose 43 (forty-three) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE shown for that number. If a player reveals a "5" play symbol, the player wins 5 (five) TIMES the PRIZE shown for that symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 43 (forty-three) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 43 (forty-three) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 43 (forty-three) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 43 (forty-three) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. The "5" (WIN x 5) symbol will only appear on intended winning tickets and only as dictated by the prize structure.

C. No more than three (3) identical non-winning prize symbols will appear on a ticket.

D. No duplicate WINNING NUMBERS play symbols on a ticket.

E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

F. Non-winning prize symbols will never be the same as the winning prize symbol(s).

G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 10 and \$10).

H. The \$50,000 prize symbol will appear at least once on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "FUNKY 5'S" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "FUNKY 5'S" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "FUNKY 5'S" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "FUNKY 5'S" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "FUNKY 5'S" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available

in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 806. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 806 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	1,120,000	5.36
\$10	400,000	15.00
\$15	160,000	37.50
\$20	120,000	50.00
\$50	80,000	75.00
\$100	9,850	609.14
\$500	750	8,000.00
\$1,000	150	40,000.00
\$5,000	17	352,941.18
\$50,000	8	750,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.17. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 806 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 806, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant

to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200701278
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: April 3, 2007

Game Number 820 "Break the Bank"

1.0 Name and Style of Game.

A. The name of Instant Game No. 820 is "BREAK THE BANK". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 820 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 820.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, MONEystack SYMBOL, \$1.00, \$2.00, \$4.00, \$6.00, \$10.00, \$20.00, \$50.00, \$200, \$1,000, \$3,000, and \$30,000.

D. Play Symbol Caption--The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 820 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
MONEY STACK SYMBOL	WIN\$
\$1.00	ONE\$
\$2.00	TWO\$
\$4.00	FOUR\$
\$6.00	SIX\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$200	TWO HUND
\$1,000	ONE THOU
\$3,000	THR THOU
\$30,000	30 THOU

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for validation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 820 - 1.2E

CODE	PRIZE
TWO	\$2.00
FOR	\$4.00
SIX	\$6.00
EGT	\$8.00
TEN	\$10.00
TWL	\$12.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number--A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize--A prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, or \$20.00.

H. Mid-Tier Prize--A prize of \$50.00 or \$200.

I. High-Tier Prize--A prize of \$1,000, \$3,000, or \$30,000.

J. Bar Code--A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number, and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number--A 13 (thirteen) digit number consisting of the three (3) digit game number (820), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 820-0000001-001.

L. Pack--A pack of "BREAK THE BANK" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One ticket will be folded over to expose a front and back of one ticket on each pack. Please note the books will be in an A, B, C, and D configuration.

M. Non-Winning Ticket--A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket--A Texas Lottery "BREAK THE BANK" Instant Game No. 820 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Proce-

dures, and the requirements set out on the back of each instant ticket. A prize winner in the "BREAK THE BANK" Instant Game is determined once the latex on the ticket is scratched off to expose 19 (nineteen) play symbols. If the player matches any of YOUR NUMBERS play symbols to any of the 3 LUCKY NUMBERS play symbols, the player wins the prize shown for that number. If the player reveals a "moneystack" symbol, the player wins the prize instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 19 (nineteen) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 19 (nineteen) Play Symbols under the latex overprint on the front portion

of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

16. Each of the 19 (nineteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 19 (nineteen) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. Non-winning prize symbols will not match a winning prize symbol on a ticket.

C. No duplicate Lucky Numbers on a ticket.

D. There will be no correlation between the matching symbols and the prize amount.

E. The auto win symbol will never appear more than once on a ticket.

F. No duplicate non-winning play symbols on a ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Instant Game prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, \$20.00, \$50.00, or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not in some cases, required to pay a \$50.00 or \$200 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the

Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "BREAK THE BANK" Instant Game prize of \$1,000, \$3,000, or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BREAK THE BANK" Instant Game prize, the claimant must sign the winning ticket; thoroughly complete a claim form; and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Office of the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "BREAK THE BANK" Instant Game, the Texas Lottery shall deliver to an adult

member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "BREAK THE BANK" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period and in the manner specified in these Game Procedures and on the back of each ticket shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 10,080,000 tickets in the Instant Game No. 820. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 820 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	907,200	11.11
\$4	584,640	17.24
\$6	161,280	62.50
\$8	40,320	250.00
\$10	100,800	100.00
\$12	120,960	83.33
\$20	60,480	166.67
\$50	37,380	269.66
\$200	8,316	1,212.12
\$1,000	164	61,463.41
\$3,000	38	265,263.16
\$30,000	6	1,680,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.99. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 820 without advance notice; at which point, no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 820, the State Lottery Act (Texas Government Code,

Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-200701208

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Filed: March 29, 2007

◆ ◆ ◆

The agency has determined that information that is confidential by law,
because it goes to the security of the lottery, is contained within the



TEXAS LOTTERY COMMISSION

OFFICE OF THE CONTROLLER

PROCEDURE

Number: OC-JE-002	Title: <i>Lotto Texas®</i> Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 1 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

PROCEDURE HISTORY

OC-JE-002 [Supersedes OC-JE-002 effective December 4, 2006]

PURPOSE

To provide standard guidelines for projecting and estimating sales for future *Lotto Texas* annuitized jackpot prize amounts that will be advertised.

SCOPE

This procedure applies to the Office of the Controller, the Lottery Operations Division, and the Executive Division.

RESPONSIBILITY

This procedure is primarily the responsibility of the Controller, Financial Operations Manager, Lottery Operations Director, Lottery Products Manager, the Deputy Executive Director, the Executive Director, and designated jackpot team personnel (jackpot team) in the Office of the Controller and the Lottery Products Department. The final approval for the estimated jackpot to advertise will be provided by the Executive Director.

GENERAL

The Texas Lottery Commission (TLC) jackpot team ensures that *Lotto Texas* sales and other information necessary to estimate the jackpot amount to be advertised is gathered so the Controller, the Lottery Products Manager, the Lottery Operations Director, or their designee(s) may review and recommend estimates and projections that will be presented to the Deputy Executive Director and the Executive Director, or their designee(s). The Executive Director, or their designee, has the sole authority to approve the final projected annuitized jackpot to advertise for *Lotto Texas* Drawings.

Number: OC-JE-002	Title: <i>Lotto Texas</i> ® Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 2 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

The “Lotto Texas” On-Line Game rule is found in the Texas Administrative Code, Title 16, Part 9, Chapter 401, Subchapter D, Rule 401.305. The Lotto Texas Game rules state, “The jackpot prize for a drawing is the greater of 40.47 percent of the proceeds from Lotto Texas ticket sales for all drawings in the roll cycle and any earnings on an investment of all or part of the sales proceeds, paid in 25 annual installments; or the amount advertised in accordance with subsection (e) of the Lotto Texas On-Line Game Rule as the estimated jackpot for the drawing, paid in 25 annual installments.”

A roll cycle is a series of drawings that ends when there is a drawing for which one or more tickets are sold that match the six numbers drawn in the drawing. A new roll cycle begins with the next drawing after a drawing for which one or more jackpot tickets are sold that match the six numbers drawn in the drawing.

The advertised amount shall be an amount payable in 25 annual installments. To the extent that the advertised amount is based on projected sales, the projections shall be fair and reasonable. The Executive Director, or designee, may approve an increase in the amount of the jackpot originally advertised for a drawing if the increase is supported by reasonable sales projections. The Lottery Products Department will be responsible for notifying all necessary personnel and/or vendors.

REFERENCE

OC-WP-003, *Lotto Texas* Jackpot Payment and Investment

PROCEDURE

I. Compile Estimate Information:

1. Determine the Interest Factor: Investment cost information is obtained from the Texas Treasury Safekeeping Trust Company by designated Controller staff and approved by Financial Operations Manager prior to each estimation. Controller staff requests the estimated cost of 25 annual payments to yield the advertised jackpot. The interest factor is calculated by dividing the advertised jackpot by the estimated cost, including the initial payment required, to fund an investment stream that would yield the total advertised jackpot over a 25-year period. Note that the investment information may not be obtainable if the appropriate financial institutions and/or brokers are not open for business such as on business holidays. In those instances either a request for the information is made the day before or the prior estimation interest factor is used.
2. Compile actual draw sales for the current drawing: Draw sales for each *Lotto Texas* drawing are recorded both on the [REDACTED]

II. Estimate the Sales and Jackpot Support for the Current and Future Draws:

The Office of the Controller and the Lottery Products Department will independently estimate draw sales and jackpot support for the current *Lotto Texas* drawing and project the

Number: OC-JE-002	Title: <i>Lotto Texas</i> ® Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 3 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

jackpot to be advertised for the next drawing in the event of a roll. Estimations may be made on a day prior to Wednesday or Friday if Wednesday or Friday fall on a holiday and management has agreed that the sales trends and jackpot levels are such that an early estimation may be achieved. If the estimation is completed prior to the holiday, at least one member of the estimation team will review sales prior to the drawing for changes in *Lotto Texas* sales or other factors that may impact jackpot prize support. If a revision to the advertised jackpot is necessary, management or their designee(s) will be contacted.

1. Project the *Lotto Texas* draw sales for the current drawing: Estimations are made each Wednesday and Friday. If the draw day is on a Wednesday, estimate sales for that Wednesday. If the draw day is on a Saturday, estimate sales for Friday and Saturday. However, jackpot estimations may be updated at any time if either of the Lottery Products or Controller staff believe that changes in *Lotto Texas* sales or other factors may impact jackpot prize support. Estimate draw sales by using historical sales data and other relevant factors that may impact sales. Combine the actual draw sales to date with the projected draw sales for the remainder of the draw period to calculate the total projected draw sales.
 - a) Evaluate historical sales data: Project the current draw day sales by estimating the expected increase/decrease in sales using the hourly sales trend and/or growth pattern for previous like-day drawings. Hourly sales information for Wednesday and Friday are available from [REDACTED]
 - b) Other factors to consider in estimating draw sales, along with evaluating historical sales data, include but are not limited to:
 - Wednesday draw sales are generally lower than Saturday draw sales.
 - length of time since a large jackpot was advertised
 - effect of holidays (Holidays generally cause sales to peak early and then fall below average on the holiday.)
 - weather throughout the state, especially in key markets
 - sales trends for like jackpots and/or most recent roll cycles
 - current advertising/promotions schedule
 - relevant media issues
 - on-line terminal connection problems
 - jackpots advertised in neighboring states and similar games such as Mega Millions
 - new on-line game launches or other game enhancements
 - overall trends in sales over similar time periods
 - other - IRS deadlines, spring break, strength of the economy, etc.

It is not necessary to evaluate all these factor for every estimate. Sound judgment should be used in determining which factors to consider.

2. Evaluate Sales Support for the Current Advertised Jackpot: Determine the projected *Lotto Texas* jackpot sales support given the current advertised jackpot.

Number: OC-JE-002	Title: <i>Lotto Texas®</i> Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 4 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

- a) If sales proceeds and the Lotto Texas prize reserve fund, if applicable, are not sufficient to pay a jackpot prize, the TLC shall use funds from other authorized sources, including the State Lottery Account as identified in Government Code, Section 466.355.
- b) The advertised jackpot for the current draw may be increased prior to the draw based on revised sales projections, if the Executive Director, or their designee, determines the increase is significant enough to announce a new advertised jackpot.
3. Estimate sales for the next draw in the event of a rollover: To estimate sales for the next draw, use historical sales data and any other relevant information as described in 1.a) and 1.b) above.
4. Project a range of prospective annuitized jackpot prize amounts that may be advertised in the event of a rollover: Use estimated draw sales for the current draw, estimated draw sales for the next draw, and the estimated interest factor to identify a range of prospective annuitized jackpot prize amounts.
 - a) The annuitized jackpot prize amount will automatically be set to four million dollars for the first draw following a draw in which at least one jackpot prize ticket is identified.
 - b) The range of projected annuitized jackpot amounts should begin with the current advertised jackpot unless sales support a jackpot of at least one million dollars greater than the current advertised jackpot.
 - c) Controller staff will complete a checklist to verify that all prior information is correct and that all of the required steps have been completed.

III. Approval of Annuitized Jackpot Amount to Advertise:

1. Office of the Controller and Lottery Products Department personnel should consult with each other regarding the most fair and reasonable sales projections and other factors which may impact jackpot prize support for the annuitized jackpot amount to advertise. Office of the Controller and Lottery Products Department staff will agree on a negotiated sales projection and this information will be presented to the Controller, the Products Manager and Lottery Operations Director or their designee(s), for their independent recommendations to the Deputy Executive Director and the Executive Director. In the event that any member of the above authorized staff is unavailable, then approval can be authorized and documented by email, pager or phone. Temporary signature authority may be designated to appropriate personnel that will be accountable for jackpot estimation approval. This temporary signature authority designation may be granted to an individual on this list of authorized signatures reflected above. For example, the Lottery Operations Director may grant temporary signature authority to

Number: OC-JE-002	Title: <i>Lotto Texas</i> ® Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 5 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

the Products Manager thus resulting in two signatures from the Products Manager. Temporary signature authorization is to be in writing, by email or pager, and should specify the effective length of time, not to exceed 10 business days. Documentation of such approval or delegation shall be kept with the estimation file maintained by Lottery Products Department and a copy of the documentation should be provided to each member of the jackpot estimation team.

- a) The recommendation of the jackpot amount to advertise in the event of a rollover should typically be based on the “low end” sales support shown at the time of estimation, however, for marketing related purposes there may be instances when the recommended jackpot could be based on an amount exceeding the “high end” sales support.
 - b) The range of potential jackpots to advertise in the event of a rollover should be used by management as a tool to understand the amount of additional funds that may be required to fund the jackpot prize. In the event that “low end” sales do not support a roll from the currently advertised jackpot, the TLC will roll the jackpot in \$1 million increments.
2. The recommended jackpot amount to advertise is then presented to the Deputy Executive Director for review and concurrence or disagreement, and ultimately to the Executive Director for final approval of the subsequent (annuitized) jackpot prize amount that will be advertised in the event of a *Lotto Texas* jackpot rollover. The *Lotto Texas Jackpot Estimation Worksheet* presented will state the projected current (annuitized) jackpot prize amount for the current draw. In the event that any member of the above authorized staff is unavailable, then approval can be authorized and documented by email, pager or phone. Temporary signature authority may be designated to appropriate personnel that will be accountable for jackpot estimation approval. This temporary signature authority designation may be granted to an individual on this list of authorized signatures reflected above in paragraph III.1. For example, the Executive Director may grant temporary signature authority to the Deputy Executive Director thus resulting in two signatures from the Deputy Executive Director. Temporary signature authorization is to be in writing, by email or pager, and should specify the effective length of time, not to exceed 10 business days. Documentation of such approval or delegation shall be kept with the estimation file maintained by Lottery Products Department and a copy of the documentation should be provided to each member of the jackpot estimation team.

IV. Distribution of Estimated Jackpot Information on the Agency Website:

1. The Office of Controller staff will perform the following:
 - a) After the Executive Director has approved an advertised estimated jackpot under subsection (e) of the *Lotto Texas On-Line Game Rule*, a member of the jackpot team will post the amount of ticket sales, if any, for previous drawings in the roll cycle, the amount of projected ticket sales for the upcoming drawing, investment information used to determine the advertised estimated jackpot, and

Number: OC-JE-002	Title: <i>Lotto Texas®</i> Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 6 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

other information used to determine the advertised estimated jackpot. This may be achieved by uploading a scan of the signed *Lotto Texas Jackpot Estimation Worksheet*.

b) The interest factor calculated by the agency based on investment information obtained from the Texas Treasury Safekeeping Trust Company and used by the TLC to determine the advertised jackpot will be entered on the [REDACTED] advertised jackpot screens for posting to the agency website.

c) The approved estimated jackpot for the next draw in the roll cycle and the approximate cash value of the estimated jackpot will be entered on the [REDACTED] advertised jackpot screens for posting to the agency website and will be published after the draw if no jackpot tickets were sold.

d) In addition, the approximate cash value of the jackpot prize amount for four million dollars is entered on the advertised jackpot screens for posting to the agency website and publishing after the draw if a jackpot prize ticket is sold for a drawing.

V. Distribution of Estimated Jackpot Information:

1. The On-Line Product Specialist or designee:
 - a) Fills in the approved annuitized jackpot prize amount to be advertised for the next drawing on the [REDACTED] request form. The [REDACTED] is used to notify the lottery operator of the annuitized jackpot prize amount to be advertised for the next drawing.
 - b) Faxes a copy of the [REDACTED] the lottery operator for processing.
 - c) Reviews the entry of the current advertised *Lotto Texas* jackpot prize amount and the annuitized jackpot prize amount to be advertised in the event of a rollover in the [REDACTED] advertised jackpots screens. The application is used to disseminate annuitized jackpot information to the agency website as well as to pertinent TLC staff.
 - d) If the application is not functioning, the [REDACTED] must be delivered to the Texas Lottery Computer Room, the agency website will be updated by Information Resources and an e-mail message must be sent to pertinent TLC and vendor staff to notify them of the jackpot prize amount that will be advertised in the event of a rollover.
 - e) Calls the lottery operator's control room to verify receipt of the fax and to confirm that the *Lotto Texas* annuitized jackpot prize amount to be advertised is legible. The name of the lottery operator staff member and time and date the verification took place shall be kept in the estimation file maintained by the Lottery Products Department.

Number: OC-JE-002	Title: <i>Lotto Texas</i> ® Jackpot Estimation	Approval: Anthony Sadberry, Executive Director
Page: 7 of 7		
Effective Date: February 13, 2007	Approval Date: February 13, 2007	Review Date:

- f) Sends a voicemail broadcast message to pertinent TLC and vendor staff, notifying them of the annuitized jackpot prize amount that will be advertised in the event of a rollover.
- 2. The Office of Controller staff will email the final and approved jackpot estimation worksheet to the Internal Audit Department, the Legislative Budget Board and the Governor's Office.
 - a) Internal Audit Department Contacts:
Assigned Internal Audit Contact – (contact name)@lottery.state.tx.us
 - b) Legislative Budget Board Contacts:
Assigned Budget Analyst - (analyst name)@lbb.state.tx.us
Assigned Revenue Analyst – (analyst name)@lbb.state.tx.us.
 - c) Governor's Office Contact:
Assigned Analyst, Governor's Advisor Budget Planning and Policy, (analyst name)@governor.state.tx.us

VI. Distribution of information when the current advertised jackpot prize amount is changed:

If the annuitized jackpot prize amount that is currently advertised is changed prior to the drawing, Lottery Products Department personnel will update the outdoor billboards with the new *Lotto Texas* annuitized jackpot prize amount to advertise and will also contact the advertising agency(s) and the Lottery Operator control room. Media Relations will notify the media that there is a new annuitized jackpot prize amount being advertised.

TRD-200701291
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: April 4, 2007

The agency has determined that information that is confidential by law, because it goes to the security of the lottery, is contained within the procedures referenced below. The confidential information has been redacted within these procedures.



Office of the Controller, Lotto Texas™ Jackpot Payment and Investment, Procedure



TEXAS LOTTERY COMMISSION

OFFICE OF THE CONTROLLER

PROCEDURE

Number: OC-WP-003	Title: <i>Lotto Texas</i> TM Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 1 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

PROCEDURE NUMBER

OC-WP-003 [Supersedes FA-WP-003 dated September 5, 2005]

PURPOSE:

This procedure outlines steps to be taken after a *Lotto Texas*TM drawing in which a *Lotto Texas*TM jackpot (first prize) ticket is sold.

SCOPE:

This procedure applies to Office of the Controller personnel and the Comptroller of Public Accounts through the Texas Treasury Safekeeping Trust Company (TTSTC)¹.

RESPONSIBILITY:

Office of the Controller personnel, including authorized signatories designated by the Controller, are responsible for administering this procedure.

¹ TTSTC exists and functions by virtue of Subchapter G, Chapter 404, Texas Government Code, and is empowered to manage, disburse, transfer, safekeep, and invest funds and securities as provided by statute or belonging to the State, agencies and local political subdivisions of the State. TTSTC is responsible for submitting requests for trade inquiries, and investment purchases from investment firms that have been approved by TTSTC and/or the Comptroller of Public Accounts. Reference: Texas Government Code §466.403 Payment of Prizes in Installments.

Number: OC-WP-003	Title: <i>Lotto Texas</i> ™ Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 2 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

GENERAL:

Under the “Lotto Texas” On-Line Game Rule, a person may, at the time of making a play, select the option for payment of the cash value of a share of the jackpot if the play is a winning play. Except as provided below, a person who is entitled to a share of a jackpot prize and who did not opt to receive the cash value of the jackpot prize shall receive payment in 25 annual installments. If a person would otherwise receive total installment payments of \$2 million or less, the Texas Lottery Commission (TLC) shall pay the person, upon completion of all validation procedures, a single payment in the amount of the cash value of those total installment payments. The cash value is the cost on the first business day after the applicable drawing of funding those installment payments. Upon Lotto Texas jackpot results reporting one or more tickets sold with a matching combination of numbers, and when indicated, Controller personnel will contact the Comptroller of Public Accounts acting by and through TTSTC, on the following working day (trade date).

The roll cycle is a series of drawings that ends when there is a drawing for which one or more tickets are sold that match the six numbers drawn in the drawing. A new roll cycle begins with the next drawing after a drawing for which one or more jackpot tickets are sold that match the six numbers drawn in the drawing.

The first business day after the Lotto Texas drawing, the [REDACTED] will be provided by Information Technology. The [REDACTED] from the [REDACTED] will identify the payment option(s) chosen at the time of purchase. The [REDACTED] will identify the percentage of sales applicable to the jackpot prize. The [REDACTED] will be emailed by the lottery operator to the TLC as secondary reports to reflect the information from the prize ticket(s).

Ref: 16 Texas Administrative Code §401.305 “*Lotto Texas*” On-Line Game Rule.

PROCEDURE:

The jackpot prize for a drawing is the greater of 40.47 percent of the proceeds from Lotto Texas ticket sales for all drawings in the roll cycle and any earnings on an investment of all or part of the proceeds from ticket sales, paid in 25 annual installments; or the amount advertised in accordance with subsection (e) of the Lotto Texas On-Line Game Rule as the estimated jackpot for the drawing, paid in 25 annual installments.

If sales proceeds and the Lotto Texas prize reserve fund are not sufficient to pay a jackpot prize, the TLC shall use funds from other authorized sources, including the State Lottery Account as identified in Government Code, Section 466.355.

TTSTC will provide upon request either a “Lottery Prize Schedule” or a “Lottery Financing Calculator.” Either report supplies the necessary information to calculate the

Number: OC-WP-003	Title: <i>Lotto Texas</i> ™ Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 3 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

cost of investment or the cash value. The Lottery Prize Schedule may be provided to reflect the purchase of a stream of investments.

Description	Lottery Prize Schedule	Lottery Financing Calculator
Amount to be invested for 24 years.	Payment (column total)	Cost of Zeros
Initial Installment	Initial Payment	Cash Payment
Additional sales contribution available. (To be added to the initial installment.)	Difference between the sum of the invested amount over 24 years plus the initial payment compared to the total sales contribution for the jackpot prize.	Difference between the sum of the invested amount over 24 years plus the cash payment compared to the total sales contribution for the jackpot prize.

Review of the annuity & cash value estimate and use of the information to complete the Lotto Texas Drawing Results & Reserve Entry Form: The available sales contribution for the jackpot prize is found on the [REDACTED] for Lotto Texas. If the "Total Cost of 25 Payments" is less than the "Amount Available," the difference "Additional Sales Contribution," is added to the jackpot prize amount. If the "Total Cost of 25 Payments" is more than the "Amount Available," the difference is paid from the reserve or from other authorized sources, including the State Lottery Account as identified in Government Code, Section 466.355.

1. The annual payments option paid in one payment:

- 1.1. If it appears that the funds may not be sufficient to pay each share of the jackpot prize in an amount greater than \$2 million, the designated employee will request an annuity & cash value estimate to yield the advertised jackpot from TTSTC on the first working day following the Lotto Texas drawing. If it is determined that the cash value of each share is less than the amount required to pay a prize over 25 years *equal to or less than \$2 million*, the prize will be paid, upon completion of all validation procedures, in a single payment in the amount of the cash value of those total installment payments. The cash value is the cost on the first business day after the applicable drawing of funding those installment payments. Because the prize will be paid in a single payment, do not return a signed annuity & cash value estimate to TTSTC.
- 1.2. The designated employee will review the annuity & cash value estimate and use the information to complete the Lotto Texas Drawing Results & Reserve Entry Form. The sales contribution for the jackpot prize is found on the [REDACTED] for Lotto Texas. If the "Total Cost of 25 Payments" is less than the "Amount Available," the difference "Additional Sales Contribution," is added to the jackpot prize amount. If the "Total Cost of Prizes" is more than the "Amount Available," the difference is paid from

Number: OC-WP-003	Title: <i>Lotto Texas™</i> Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 4 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

the reserve or from other authorized sources, including the State Lottery Account as identified in Government Code, Section 466.355.

- 1.3. The designated employee will provide the annuity & cash value estimate, [REDACTED] and the signed Lotto Texas Drawing Results & Reserve Entry Form to the Controller or other authorized signatory. The Controller or other authorized signatory will review the information for completeness and accuracy and will sign the form.
- 1.4. Until which time as the Lotto Texas prize reserve fund is depleted, the designated employee will update the Lotto Texas Prize Reserve spreadsheet using the information on the Game Summary Report and the information on the Lotto Texas Drawing Results & Reserve Entry Form. This step must be completed for all Lotto Texas drawings. See addendum for information acquired from the [REDACTED]. The Lotto Texas Drawing Results & Reserve Entry Form provides the amount of funds taken from the prize reserve or from other authorized sources including the State Lottery Account to fund the jackpot prize.

2. The annual payments option paid in 25 installments:

- 2.1. If it is determined that each share of the annuitized jackpot prize may provide a total payment stream for 25 installments greater than \$2 million, including any additional sales contribution, the designated employee will request an annuity purchase from TTSTC on the first working day following the Lotto Texas drawing. TTSTC shall be instructed to purchase an investment stream that will provide an initial payment plus 24 subsequent annual payments that will yield a total prize that is equal to the advertised jackpot. In the event that funds are sufficient to pay a jackpot prize that is greater than the advertised amount, additional sales may be added to the initial payment.
- 2.2. If more than one jackpot prize ticket is sold and the prize per share does not divide equally by the number of shares, it is preferable, to purchase separate investments for each jackpot prize ticket sold. Due to 16 Texas Administrative Code Game Rule §401.310 Payment of Prize Payments upon Death of Prize Winner a sale of an annuity may be approved by the Commission. Therefore, the annuity will need to be divided equally among all shares in the event the Commission needs to sell a separate share.
- 2.3. TTSTC will provide, by facsimile or other acceptable method, the Lottery Prize Schedule to the designated employee. The schedule should reflect the par value over 24 years, the first maturity year following the date of the draw, and the cost of each investment. The designated employee and an authorized signatory will review the schedule for completeness. To complete the purchase, the document must be signed by an authorized signatory and returned to TTSTC promptly.
- 2.4. The designated employee will complete the Lotto Texas Drawing Results & Reserve Entry Form. Once completed, the designated employee will provide the Lottery Prize Schedule, the [REDACTED], and the signed Lotto Texas

Number: OC-WP-003	Title: <i>Lotto Texas™</i> Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 5 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

Drawing Results & Reserve Entry Form to the Controller or other authorized signatory. The Controller or other authorized signatory will review the information for completeness and accuracy and will sign the form.

- 2.5. Until such time as the Lotto Texas prize reserve fund is depleted, the designated employee shall update the Lotto Texas Prize Reserve spreadsheet using the information on the [REDACTED] and the information on the Lotto Texas Drawing Results & Reserve Entry Form. This step must be completed for all Lotto Texas drawings. See addendum for information acquired from the [REDACTED]. The Lotto Texas Drawing Results & Reserve Entry Form provides the amount of funds taken from the prize reserve or from other authorized sources including the State Lottery Account to fund the jackpot prize.
 - 2.6. The first installment payment shall be made upon completion of commission validation procedures. The subsequent 24 installment payments shall be made annually on or about the 15th day of the month in which the applicable drawing occurred. The second through 24th installment payments shall be in equal amounts. The first installment payment may be equal to or higher than the subsequent installment payments.
- 3. The Cash Value Option calculation:**
- 3.1. The prize will be paid, upon completion of all validation procedures, in a single payment in the amount of the cash value of those total installment payments. The designated employee will request an annuity & cash value estimate (non-purchase) from TTSTC the first working day following the Lotto Texas drawing. Do not return the signed annuity & cash value estimate to TTSTC. The prize amount will be a share of 40.47 percent of total sales for the roll cycle; or the cost on the day after the drawing of funding a share of installment payments.
 - 3.2. The designated employee will review the annuity & cash value estimate to complete the Lotto Texas Drawing Results & Reserve Entry Form. If the "Cost of 25 Payments" is less than the "Amount Available", the difference "Additional Sales Contribution" is added to the jackpot prize amount. If the "Total Cost of 25 Payments" is more than the "Amount Available," the difference is paid from the Lotto Texas prize reserve or from other authorized sources, including the State Lottery Account as identified in Government Code, Section 466.355.
 - 3.3. The designated Office of the Controller employee will provide the annuity & cash value estimate, the [REDACTED] and the signed Lotto Texas Drawing Results & Reserve Entry Form to the Controller or other authorized signatory. The Controller or other authorized signatory will review the information for completeness and accuracy and sign the form.
 - 3.4. Until which time as the Lotto Texas prize reserve fund is depleted, the designated employee will update the Lotto Texas Prize Reserve spreadsheet using the information on the [REDACTED] and the information on the Lotto Texas Drawing Results

Number: OC-WP-003	Title: <i>Lotto Texas™</i> Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 6 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

& Reserve Entry Form. This step must be completed for all Lotto Texas drawings. See addendum for information acquired from the [REDACTED]. The Lotto Texas Drawing Results & Reserve Entry Form provides the amount of funds taken from the prize reserve or other authorized sources including the State Lottery Account to fund the jackpot prize.

4. The Combination of CVO and annual payments option:

- 4.1. If more than one jackpot prize ticket is sold and if the tickets include at least one annual payment option ticket and one cash value option ticket refer to instructions in "B" above for payment of all annual payment shares and refer to "C" above for payment of all CVO shares.
- 4.2. A separate annuity & cash value estimate from TTSTC will not be requested for the cash value calculation. The Lottery Prize Schedule provided by TTSTC for the purchase of the annual payment option(s) will be used to determine the cash value.

5. For all Lotto Texas drawings in which a jackpot prize ticket is sold:

- 5.1. After each drawing, [REDACTED] will send an update to the general ledger to reflect any reductions in the prize reserve fund, used to pay the guaranteed fourth prize. If a transfer from the reserve is required to fund the jackpot prize category, a manual general ledger entry must be made by a designated general ledger employee. The designated employee will provide the Lotto Texas Drawing Results & Reserve Entry Form and the [REDACTED] screen to the designated general ledger staff for each drawing in which a jackpot prize ticket is sold.
- 5.2. The Lotto Texas Drawing Results & Reserve Entry Form, [REDACTED] [REDACTED] the Lottery Prize Schedule or the annuity & cash value estimate from TTSTC, and any other related prize calculation paperwork will be provided to the prize payment staff.
- 5.3. The designated employee will send an e-mail to inform certain lottery staff on the Jackpot Information e-mail distribution list, of the number of jackpot prize tickets sold for the drawing, the payment method(s) selected, the initial payment, the subsequent 24 payments (if applicable), and/or the total jackpot prize amount, the date of subsequent payments (if applicable), the advertised jackpot amount, and the amount of the bonus to be received by the qualifying retailer(s).
- 5.4. The TLC will pay a bonus of one percent (1%) of the Lotto Texas advertised jackpot or the jackpot based on sales (advertised plus additional sales contribution), whichever is greater, up to \$500,000 for any drawing, to the retailer(s) who sell(s) the jackpot-winning ticket(s). The one percent Lotto Texas retailer bonus is pari-mutuel. That is, should there be multiple jackpot winners with winning tickets sold by more than one retailer, the one percent bonus will be divided equally between the retailers.

Number: OC-WP-003	Title: <i>Lotto Texas™</i> Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 7 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

Winner Payment Processing

Refer to procedure FA-WP-001, **Processing Prize Payments**.

Once the jackpot prize ticket has passed the internal validation process, the ticket is declared a valid winning ticket and the winner is declared. The designated prize payment employee prepares a Lotto Texas Payment Schedule based on the information obtained for the calculation of the prize. The schedule will be reviewed by the Controller or other designated staff prior to distribution. The Lotto Texas Payment Schedule will be provided to the winner and the Products Department staff. A copy of the payment schedule will remain in the winner's file. If two or more jackpot prize tickets are sold, a payment schedule will be created for each jackpot prize winner.

Addendum: Lotto Texas Prize Reserve fund

The Lotto Texas prize reserve fund is composed of all reserve funds remaining based on the prior Lotto Texas game rules. The Lotto Texas prize reserve fund may be decreased if the cost of the advertised jackpot paid over 25 years is greater than the sales contribution for the jackpot prize level. The Lotto Texas prize reserve may also be decrease if the total liability for the fourth prize exceeds the sales contribution for the fourth prize level. The Lotto Texas prize reserve fund may be used only for the Lotto Texas game.

The prize amounts for each drawing paid to each Lotto Texas player who selects a matching combination of numbers for prize level one, two, and three will vary because they are pari-mutuel prizes. Prize category four is a guaranteed prize (fixed prize) of \$3.00.

The pari-mutuel prize amounts, except the jackpot prize amount, are based on the total amount in the prize level for the Lotto Texas drawing distributed equally over the number of matching combinations in each prize level. The calculation of pari-mutuel prize for levels two and three will automatically be calculated by [REDACTED]. An amount of exactly fifty cents shall be rounded up to the nearest whole dollar. Any part of the second or third prize for a drawing that is not paid in prizes shall be carried forward and shall become part of the second or third prize tiers, respectively, for the next drawing. Therefore, prize levels two and three will not impact the Lotto Texas prize reserve fund.

If proceeds from Lotto Texas ticket sales and the Lotto Texas prize reserve fund are not sufficient to pay all jackpot prizes or fourth level prizes for a draw, the commission shall use funds from other authorized sources, including the State Lottery Account as identified in Government Code, Section 466.355.

Addendum: [REDACTED] Report

- "Tot" sales are the total amount of sales for the current draw.
- "Level" is the prize level for all prizes in the current draw.

Number: OC-WP-003	Title: Lotto Texas™ Jackpot Payment and Investment	Approval: Gary Grief, Deputy Executive Director
Page: 8 of 7		
Effective Date: April 26, 2006	Date: April 27, 2006	Review Date:

- The transfer of cash contribution from the reserve fund or other authorized sources for the fourth prize level is calculated as the funds available for the fourth prize level less total liability. The transfer of additional funds to the jackpot prize, if applicable, is obtained from Lotto Texas Drawing Results & Reserve Entry Form.
- The “sales contribution” for each prize level is the percentage of sales attributed to each prize level.
- “Tot Liability” is the total liability for each prize level which is the number of prize tickets sold multiplied by the prize amount.
- “Breakage” is the amount remaining in each prize level after all prizes are paid for the drawing.

TRD-200701292
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: April 4, 2007



Office of the Controller, Processing Prize Payments Procedures

Title: Processing Prize Payments

Approval: Kathy Pyka, Controller

Effective Date: November 28, 2006

Approval Date: November 28, 2006

PROCEDURE NUMBER

OC-WP-001 [Supersedes FA-WP-001 dated 9/19/2005]

PURPOSE:

To provide standard guidelines for processing prize payments through Office of the Controller.

SCOPE: This procedure applies to Office of the Controller and the Comptroller of Public Accounts through the Texas Treasury Safekeeping Trust Company (TTSTC). These procedures allow the commission to provide for prize payments in a uniform, systematic, and timely manner while implementing state and federal laws.

RESPONSIBILITY: Prize payment personnel from Office of the Controller have primary responsibility for this procedure.

GENERAL: The Office of the Controller shall oversee the implementation of this procedure for all prize payments processed by Office of the Controller Prize Payment staff. The following general guideline will be used.

- Ensure that prizes for amounts that exceed the claim center limits of \$999,999, prizes paid in installments, prizes awarded to minors, cash value prizes, 2nd chance drawings, and other special prizes not otherwise paid by a lottery claim center are processed in the lottery vendor (ProSys) system.
- Issue single, weekly, monthly, quarterly, or annual payments to instant game recipients as provided by each game’s game rules.

• Issue timely annuity payments, cash value option (CVO) payments, or lump sum payments as provided by each game’s game rules for on-line game recipients that are not otherwise paid by a lottery claim center.

• Make any necessary adjustments to the payments according to debt set-offs and warrant holds for other agencies, court orders, levies, or liens.

• Make payments per approved voluntary and involuntary assignments.

• Federal taxpayer numbers may be classified as a Taxpayer Identification Number (TIN), a Federal Employer Identification Number (EIN or FEIN). Individuals’ Social Security Number (SSN) may also be considered as a TIN. An ITIN is an individual tax identification number.

Ref: Game Rules §401.301 General Definition.

To view or obtain a copy of the complete procedure, go to www.txlottery.org or contact the Open Records Coordinator at (512) 344-5420 or openrecords@lottery.state.tx.us.

NOTE: The agency has determined that information that is confidential by law, because it goes to the security of the lottery, is contained within the procedures referenced herein. The confidential information has been redacted within these procedures.

TRD-200701293
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: April 4, 2007



North Central Texas Council of Governments

Notice of Consultant Contract Award

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of consultant contract award. The consultant proposal request appeared in the December 15, 2006, issue of the *Texas Register* (31 TexReg 10182). The selected consultant will perform technical and professional work to conduct a Regional General Aviation and Heliport System Plan.

The consultant selected for this project is Clough Harbour & Associates LLP., P.O. Box 352, Mount Pleasant, Texas 75456. The maximum amount of this contract is \$2,900,000.

Issued in Arlington, Texas on April 4, 2007.

TRD-200701289

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: April 4, 2007



Public Utility Commission of Texas

Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on April 2, 2007, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Universal Cable Holdings, Inc., d/b/a Suddenlink Communications for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34085 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34085.

TRD-200701297

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: April 4, 2007



Notice of Application for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider

Notice is given to the public of an application filed with the Public Utility Commission of Texas on March 30, 2007, for designation as an eligible telecommunications carrier and eligible telecommunications provider.

Project Title and Number: Application of State Telephone Texas Corporation for Designation as an Eligible Telecommunications Carrier (ETC) and Eligible Telecommunications Provider (ETP). Docket Number 34066.

The Application: The company is requesting ETC/ETP designation in order to be eligible to receive federal and state universal service funding to assist it in providing universal service in Texas. Pursuant to 47 U.S.C. §214(e), the commission, either upon its own motion or upon request, shall designate qualifying common carriers as ETCs and ETPs for service areas set forth by the commission.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by April 27, 2007. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (800) 735-2989 to reach the commission's toll

free number (888) 782-8477. All comments should reference Docket Number 34066.

TRD-200701284

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: April 3, 2007



Notice of Petition for Declaratory Order

Notice is given to the public of a petition for declaratory order with the Public Utility Commission of Texas on March 28, 2007.

Docket Style and Number: Petition of GTE Southwest Incorporated d/b/a Verizon Southwest, Southwestern Bell Telephone, L.P. db/a AT&T Texas, and United Telephone Company of Texas, Inc. d/b/a Embarq, for Declaratory Relief Regarding 811 Tariffed Services, Docket Number 34062.

The Application: GTE Southwest Incorporated d/b/a Verizon Southwest, Southwestern Bell Telephone, L.P. d/b/a AT&T Texas, Central Telephone Company of Texas, Inc. d/b/a Embarq, and United Telephone Company of Texas, Inc. d/b/a Embarq, seek a declaratory ruling regarding provision of 811 service pursuant to tariffs that the petitioners have filed or may file before the commission.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing-and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All correspondence should refer to Docket Number 34062.

TRD-200701259

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 30, 2007



Request for Information

OVERVIEW

The Public Utility Commission of Texas (PUCT or Commission) issues this Request for Information (RFI) to solicit information that may assist the agency in determining whether and how to solicit proposals for consulting services. On February 26, 2007, Kohlberg Kravis Roberts & Co. and Texas Pacific Group (KKR et al) announced it would acquire TXU Corp. The PUCT is required to determine whether the proposed acquisition is in the public interest. *See Texas Utilities Code 14.101 et seq.*

The PUCT has issued this Request for Information (RFI) to identify potential consultants and costs associated with a review and analysis of the acquisition. This RFI is not a solicitation document; nor does it constitute an intention by the PUCT to issue a solicitation in the future. Estimated pricing information is requested for planning and budgetary purposes only. The PUCT is not responsible for any costs incurred by parties submitting responses to this RFI.

INFORMATION REQUESTED

1. Tasks

Respondents should submit information concerning their ability to undertake the following tasks. Responses should correspond to the individual tasks.

A. Review and evaluate the terms of the proposed acquisition to determine its effect on TXU Electric Delivery, which is the regulated transmission and distribution utility. The review should include, but is not limited to, effects on the health and safety of employees and retail customers, the potential transfer of jobs out of state, and service quality.

B. Review and evaluate the terms of the proposed acquisition and the organization of the resulting company to determine whether they create adequate separation of TXU Electric Delivery from the retail electric provider (TXU Energy) and the power generation company (TXU Power).

C. Review and evaluate the terms of the proposed acquisition to determine whether and how it would affect TXU Electric Delivery's financial and managerial resources to provide continuous and adequate service to customers.

D. Review and evaluate the terms of the proposed acquisition to determine whether the price reasonably reflects the value of the property, facilities, securities, and all other assets to be disposed of or transferred.

E. Review and evaluate the proposed acquisition to determine whether the transaction would affect TXU Energy's:

- financial and technical resources to provide continuous and adequate service to customers;

- managerial and technical ability to supply electricity at retail in accordance with customer contracts; or

- resources needed to meet the customer protection requirements of PURA.

F. Review and evaluate the proposed acquisition to determine whether TXU Power will have the capability to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines and procedures established by the Electric Reliability Council of Texas (ERCOT).

The Public Utility Regulatory Act can be found at <http://tlo2.tlc.state.tx.us/statutes/ut.toc.htm>

Information on ERCOT can be found at <http://www.ercot.com/>

2. Estimated Pricing

Provide estimated pricing for the services described above, including the basis for that pricing, *e.g.*, fixed fee, fixed fee plus expenses, hourly rates, etc.

3. Summary of Organization and Experience Provide a brief (no more than 2 pages) summary of your organization and your previous experience with the merger, acquisition, sale or transfer of large utilities and other relevant qualifications.

CONFIDENTIALITY/PUBLIC INFORMATION ACT

All responses and their contents submitted to the PUCT in response to this RFI become the property of the State of Texas, will not be returned to the submitting parties, and are subject to the Public Information Act, Chapter 552, Texas Government Code (the "Act"). In no event shall the State of Texas, the PUCT, or any of their agents, representatives, consultants, directors, officers, or employees be liable to a respondent for the disclosure of all or a portion of the information submitted in response to this RFI.

GENERAL INFORMATION

RFI Issue Date: Wed., April 4, 2007

RFI Closing Date: Fri., April 20, 2007

Point of Contact:

Paula Mueller

Deputy Executive Director

Public Utility Commission of Texas

P.O. Box 13326

Austin, TX 78711-3326

paula.mueller@puc.state.tx.us

Submission Instructions:

Interested parties must submit their responses to this RFI to the PUCT point of contact above. Responses must arrive at the PUCT before 5:00 p.m. on Friday, April 20, 2007. Parties may submit responses by mail or e-mail.

TRD-200701301

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: April 4, 2007



How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 30 (2005) is cited as follows: 30 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "30 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 30 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html

version as well as a .pdf (portable document format) version through the Internet. For website subscription information, call the Texas Register at (800) 226-7199.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC.

The TAC volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (1-800-356-6548), and West Publishing Company (1-800-328-9352).

The Titles of the TAC, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 8, and October 7, 2005). If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).